

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JEAN AZOR-EL, et al.,

Plaintiffs,

-vs-

Case No. 1:20-CV-0365-KPF

CITY OF NEW YORK, et al.,

Defendants.

the oral deposition of EMILY TURNER, produced, sworn and examined on the part of the Plaintiffs, pursuant to Notice on Thursday, May 13, 2021, beginning at 9:00 a.m. central time, via videoconference, at each respective parties' home/office, before me,

BRENDA FITZGERALD
(MO) CCR No. 520 - (KS) CCR No. 1713
of
HERITAGE REPORTING

a Certified Court Reporter in and for the States of Missouri and Kansas.

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2 For Plaintiffs:</p> <p>3 KEENAN & BHATIA, LLC</p> <p>4 90 Broad Street, Suite 200-</p> <p>5 New York, New York 10004</p> <p>6 By: Mr. Edward "E.E." Keenan, Esq.</p> <p>7 (Appearing via teleconference)</p> <p>8 For Defendant Department of Correction:</p> <p>9 NEW YORK CITY DEPARTMENT OF CORRECTION</p> <p>10 7520 Astoria Boulevard, Suite 305</p> <p>11 East Elmhurst, New York 11370</p> <p>12 By: Mr. Chlarens Orsland, Esq.</p> <p>13 Mr. David Thayer, Esq.</p> <p>14 (Appearing via teleconference)</p> <p>15 Also Present:</p> <p>16 Julia Gokhberg</p> <p>17 (Appearing via teleconference)</p> <p>18 * * * * *</p>	<p style="text-align: right;">Page 4</p> <p>1 EXHIBIT INDEX (CONT'D)</p> <p>2 Exhibit No. Idfd</p> <p>3 No. 68 - BOC 000179 116</p> <p>4 No. 69 - BOC 005787 117</p> <p>5 No. 70 - BOC 005771 118</p> <p>6 No. 71 - BOC 000207 118</p> <p>7 No. 72 - BOC 002614 119</p> <p>8 No. 73 - BOC 002594 119</p> <p>9 No. 74 - BOC 003658 120</p> <p>10 No. 75 - BOC 002610 121</p> <p>11 No. 76 - BOC 005760 122</p> <p>12 No. 77 - BOC 000424 123</p> <p>13 No. 78 - BOC 000475 123</p> <p>14 No. 79 - BOC 000479 124</p> <p>15 No. 80 - BOC 000462 124</p> <p>16 No. 81 - BOC 000126 126</p> <p>17 No. 82 - BOC 000575 127</p> <p>18 No. 83 - BOC 000510 127</p> <p>19 No. 84 - BOC 000505 128</p> <p>20 No. 85 - BOC 000486 129</p> <p>21 No. 86 - BOC 000491 129</p> <p>22 No. 87 - BOC 001734 130</p> <p>23 No. 88 - BOC 001859 130</p> <p>24 No. 89 - BOC 001927 130</p> <p>25 No. 90 - BOC 001898 131</p>
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<p style="text-align: right;">Page 6</p> <p>1 EMILY TURNER,</p> <p>2 a witness, having been first duly sworn, testified</p> <p>3 upon her oath as follows:</p> <p>4 DIRECT EXAMINATION</p> <p>5 BY MR. KEENAN:</p> <p>6 Q Good morning, Miss Turner. How are you</p> <p>7 today?</p> <p>8 A Good.</p> <p>9 Q Good. Could you go ahead and introduce</p> <p>10 yourself by your full name, please?</p> <p>11 A Sure, my name is Emily Turner.</p> <p>12 Q Go ahead, Miss Turner.</p> <p>13 A I'm the acting deputy executive director</p> <p>14 at the New York City Board of Correction.</p> <p>15 Q We had the chance to get acquainted before</p> <p>16 we started the deposition today, but can you</p> <p>17 introduce kind of what the Board of Correction is</p> <p>18 and how BOC's role fits into New York City's</p> <p>19 correctional system?</p> <p>20 A Sure, the New York City Board of</p> <p>21 Correction is a nine member oversight Board that</p> <p>22 oversees conditions of confinement in the New York</p> <p>23 City jail system.</p> <p>24 We also are responsible for setting local</p> <p>25 law and regulation with respect to those</p>	<p style="text-align: right;">Page 8</p> <p>1 During the course of the deposition today</p> <p>2 if you want to take a break at any point we can</p> <p>3 take a break as many times as you want and as</p> <p>4 often as you want. Just let us know and all I'd</p> <p>5 ask is that if there's a pending question at the</p> <p>6 time if you can go ahead and answer that question</p> <p>7 and then we can take a break.</p> <p>8 That sound good?</p> <p>9 A Yeah.</p> <p>10 Q And if there's anything we can do to make</p> <p>11 the deposition more comfortable or to improve the</p> <p>12 quality of the communication will you let us know</p> <p>13 that?</p> <p>14 A Sure.</p> <p>15 Q Is there any reason physical, mental or</p> <p>16 otherwise that you believe you would not be able</p> <p>17 to give truthful, accurate and complete testimony</p> <p>18 today and give a deposition?</p> <p>19 A No.</p> <p>20 Q You are appearing as a representative of</p> <p>21 the BOC to testify on a list of topics that we had</p> <p>22 directed to the BOC in this case; correct?</p> <p>23 A Yes.</p> <p>24 MR. KEENAN: Okay. So Julia, I'm</p> <p>25 going to ask you to please pull up the Notice of</p>
<p style="text-align: right;">Page 7</p> <p>1 conditions including access to health and mental</p> <p>2 health and other basic standards of the conditions</p> <p>3 of confinement in the New York City jails.</p> <p>4 And we have nine appointed Board members.</p> <p>5 It's a voluntary Board and we meet nearly monthly</p> <p>6 to have public discussions on variances or various</p> <p>7 issues that have come to the Board's attention.</p> <p>8 Q And I should also state for the record,</p> <p>9 really for the benefit of our court reporter more</p> <p>10 than anything else, I think we noticed to record</p> <p>11 this deposition.</p> <p>12 Is everybody okay with that?</p> <p>13 A Yes.</p> <p>14 Q I'm going to go ahead and turn that on.</p> <p>15 That will help give us a better audio record if we</p> <p>16 need that, so I've gone ahead and turned that on</p> <p>17 and then I'll, of course, pause at any time we go</p> <p>18 on break.</p> <p>19 Ms. Turner, have you ever given a</p> <p>20 deposition before?</p> <p>21 A Once before.</p> <p>22 Q So you may have already gone over this</p> <p>23 with the City's attorneys before the deposition</p> <p>24 today, I'll just go over some essentials and let</p> <p>25 me know if you have any questions or concerns.</p>	<p style="text-align: right;">Page 9</p> <p>1 Deposition.</p> <p>2 Do I need to able to screen sharing?</p> <p>3 MS. GOKHBERG: Yes.</p> <p>4 Q (By Mr. Keenan) Miss Turner, during the</p> <p>5 course of the deposition today we're going to be</p> <p>6 showing documents on the zoom screen share.</p> <p>7 Are you able to see these documents well?</p> <p>8 A Yes.</p> <p>9 Q Okay. If you ever have any trouble seeing</p> <p>10 any of the documents will you let us know that?</p> <p>11 A Yes, I will.</p> <p>12 Q Thank you.</p> <p>13 MR. KEENAN: And Julia, do you recall</p> <p>14 what Deposition Exhibit number we left off at?</p> <p>15 MS. GOKHBERG: Yes, this will be</p> <p>16 Exhibit 51.</p> <p>17 Q (By Mr. Keenan) Miss Turner, we have</p> <p>18 displayed on the screen share what is going to be</p> <p>19 marked as Exhibit 51 in this case.</p> <p>20 (WHEREUPON DEPOSITION EXHIBIT NO. 51 WAS</p> <p>21 MARKED FOR IDENTIFICATION.</p> <p>22 Q (By Mr. Keenan) This is a Notice of a</p> <p>23 Rule 30(b)(6)deposition of New York City Board of</p> <p>24 Correction.</p> <p>25 Have you seen this document?</p>

<p>Page 10</p> <p>1 A Is this the complete document or are there 2 more -- 3 Q There are more pages. We can scroll 4 through those. 5 A Yes, yes, I've seen that. 6 MR. KEENAN: Julia, why don't we 7 scroll through those topics. And then why don't 8 we go to the end. 9 Q (By Mr. Keenan) Miss Turner, is this the 10 Notice of Deposition for which you're the BOC 11 representative? 12 A Yes. 13 Q And do you know which topics you're here 14 to testify about or is it all? 15 A I believe it's all of them but my 16 understanding is that the focus would primarily be 17 on mask use and sanity issues. 18 MR. KEENAN: Julia, could we move on, 19 please, to what will be Exhibit 52; correct? 20 (WHEREUPON DEPOSITION EXHIBIT NO. 52 WAS 21 MARKED FOR IDENTIFICATION.) 22 Q (By Mr. Keenan) That will be a printout 23 from the Board of Corrections website. 24 Miss Turner, we're displaying on the 25 screen share what's going to be marked as</p>	<p>Page 12</p> <p>1 and display what's going to be document 53, 2 please. This will be Miss Turner's LinkedIn 3 profile. 4 (WHEREUPON DEPOSITION EXHIBIT NO. 53 WAS 5 MARKED FOR IDENTIFICATION.) 6 Q (By Mr. Keenan) Miss Turner, we went 7 ahead and looked at your LinkedIn profile from 8 LinkedIn, of course. This is just to kind of 9 facilitate summarizing your resume and 10 professional history. 11 Miss Turner, do you recognize document 53, 12 which is a printout of your LinkedIn profile? 13 A Yes. 14 Q And does this LinkedIn profile truthfully 15 and accurately reflect your professional history? 16 A Yes. 17 Q Okay. What duties do you have as the 18 deputy executive director at the BOC? 19 A So I support our executive director. I 20 also manage our research staff as well as our 21 monitoring -- monitoring staff. 22 In the course of the COVID 19 pandemic we 23 have reorganized our staff significantly to adjust 24 for monitoring COVID 19 in the jail so we've done 25 a bit of restructuring.</p>
<p>Page 11</p> <p>1 Exhibit 52. I'll represent to you that this is a 2 pdf printout of a page on the New York City Board 3 of Correction's website. 4 Do you recognize this document? 5 A Yes. 6 Q Can you tell us what it is, please? 7 A This is a description that we post 8 publicly as to what the Board is and the Board's 9 role. 10 Q Does this document correctly summarize 11 what the Board is and what its role is? 12 A Yes. 13 Q And the Board of Correction maintains a 14 website of which there are lots of records about 15 the Board's actions and observations and reports 16 the Board has conducted and things of that nature, 17 official documents of the Board; correct? 18 A Correct. 19 Q Are the documents accessible on that 20 website, such as reports of the Board of 21 Correction and records of meetings, true and 22 correct records of the New York City Board of 23 Correction? 24 A Yes. 25 MR. KEENAN: Julia, let's go ahead</p>	<p>Page 13</p> <p>1 My primary focus since the start of the 2 pandemic has been to work with a group of staff on 3 our public reporting related to COVID 19, 4 producing our daily and then weekly reports on 5 COVID as well as our other research reports. 6 I've also been supervising our on-site 7 inspection team that has been going into the jails 8 during the pandemic. 9 Q Miss Turner, I've got two questions and 10 please take them in any order you prefer. 11 One is you mentioned that the BOC has 12 significantly realigned how it's organized in wake 13 of the pandemic. 14 The second is you mentioned that there are 15 on-site inspection teams, or I forgot the exact 16 term you used, but I think that summarizes it. 17 So I wanted to see if you could tell us 18 what those realignments are in light of COVID 19 19 and then also tell us about the on-site inspection 20 teams and how they work, please? 21 A Sure. So prior to the pandemic we had a 22 research team and a monitoring team with staff who 23 were assigned to each facility to be regularly 24 touring the facility. 25 And since COVID we've transitioned -- due</p>

<p style="text-align: right;">Page 14</p> <p>1 to COVID we transitioned to remote -- remote work, 2 which involved setting up a series of smaller, 3 more focused teams on particular areas of work, 4 including a grievance team that is responsible for 5 reviewing grievances received by the Department. 6 Initially we had a Genetec team that was 7 primarily focused on reviewing Genetec footage 8 during the early months of the pandemic and a 9 reporting team that was responsible for our daily 10 and weekly putting together data for our daily and 11 weekly reports, both internally to the Board and 12 then publicly sharing those reports on our 13 website. 14 And then starting in May of 2020 we 15 started to conduct targeted on-site inspections 16 with staff that had volunteered to go back into 17 the facilities to conduct targeted on-site 18 inspections, in particular facilities and 19 particular housing areas. 20 But we also have a complaint team that 21 reviews all of the complaints that come directly 22 to the Board on various issues, whether from staff 23 or from people in custody or their advocates for 24 family and friends. 25 So those are the teams that we've -- that</p>	<p style="text-align: right;">Page 16</p> <p>1 had access through various DOC computer access 2 that we at the Board have, but we worked on and 3 mobilized coordinating with the Department to get 4 more of our staff access to that -- to DOC 5 computers and to the DOC Genetec system so that we 6 would be able to view the video surveillance 7 system and review footage from that system. 8 And that team was in place for, I believe, 9 end of March through mid to late July and that 10 team was focused on, to the extent that we could, 11 given the limitations of reviewing video footage, 12 monitor compliance with various policies and 13 protocols that have been put forward by the 14 Department in response to COVID 19. 15 We provided two public reports. The first 16 report came out May 11th and the second report 17 came out on June 8th with information about social 18 distancing, staff PPE usage, mask usage by people 19 in custody and some other -- some other policies 20 that we were monitoring towards with that -- the 21 work of that team. And so that work resulted in 22 two public reports as well as some additional data 23 collection and review. That occurred during those 24 months when that team was operating. 25 Q Is the Genetec team no longer operating?</p>
<p style="text-align: right;">Page 15</p> <p>1 we've -- how we restructured from kind of two main 2 teams. I should also mention we did have a small 3 legal team but all of those -- all our staff kind 4 of got reorganized into the teams I just 5 described. 6 The Genetec team that we had in the first 7 few months of the pandemic got merged with our 8 grievance team and so that team expanded a bit a 9 few months -- a few months into the pandemic. 10 So essentially when we moved to remote 11 work we reoriented most of the Board's focus on 12 the Department's and Correctional Health's 13 response to the pandemic, as well as our 14 assessment of conditions and compliance with 15 minimum standards in the jails. 16 Q Miss Turner, you mentioned something 17 called the Genetec team, can you spell that for 18 us, please? And then I want to ask you what 19 Genetec is and what the functions of that team 20 are. 21 A Sure, the Genetec is, I believe it's 22 spelled G-E-N-E-T-E-C and that is the video 23 surveillance system, the name of the BOC's video 24 surveillance system, with cameras throughout the 25 jails and that is a system that we -- Board staff</p>	<p style="text-align: right;">Page 17</p> <p>1 A The staff on that specific team have been 2 combined with our grievance team, so we still use 3 the Genetec system to monitor various issues but 4 not in the same way that we had during the first 5 few months of the pandemic. 6 Q How many staff does the Board of 7 Correction have, approximately? 8 A I believe -- I should know that. I 9 believe our head count is currently 24. That's 10 across the entire, entire agency. 11 Q Does the BOC still have realtime access to 12 Genetec footage such that there are people at the 13 BOC who could from a computer log into see camera 14 footage as it is happening? 15 A Yes. 16 Q Who all is responsible for that and who 17 has access to that footage? 18 A Most of our staff have access to that 19 system but not all of our staff use access to that 20 system or need to use access to that system on a 21 daily basis. 22 Q Does BOC have any processes or procedures 23 for how regularly BOC staff log in and look at 24 camera footage, how long they look at camera 25 footage for and in what locations?</p>

<p>Page 18</p> <p>1 What I'm trying to understand is basically 2 is there any regular methodology to monitoring 3 that footage or is it kind of ad hoc? 4 A It's currently ad hoc. During -- when we 5 were conducting the audits, the specific audits in 6 the first few months of the pandemic, we had more 7 consistent methodology or were working through to 8 develop a consistent methodology such that we 9 would be able to produce those reports. So there 10 was more of an expectation around how footage 11 would be reviewed to prepare those audits. 12 But currently we have -- it's more ad hoc 13 in terms of investigating specific issues, 14 monitoring particular areas as concerns come up. 15 We don't have a particular protocol for 16 how many hours of footage or in what locations we 17 would be monitoring footage at any given time. 18 Q In terms of the technology of accessing 19 realtime footage of Genetec cameras, assuming that 20 one has the relevant permissions and has been 21 granted access, is it as a practical matter easy 22 to do such that basically you just log into your 23 computer, click a few buttons and you can pipe 24 into the camera footage from a desktop or laptop 25 computer?</p>	<p>Page 20</p> <p>1 experience just from trying to monitor particular 2 issues in particular areas and learning the system 3 and the different features -- helpful features of 4 the system as they became more familiar with it. 5 Q And if you have any issues DOC IT can help 6 with getting those resolved? 7 A Yeah, we would reach out to them if we had 8 trouble accessing the system. 9 MR. KEENAN: Julia, could we pull up 10 what's going to be document 54, the BOC team 11 assignments, please. 12 (WHEREUPON DEPOSITION EXHIBIT NO. 54 WAS 13 MARKED FOR IDENTIFICATION.) 14 Q (By Mr. Keenan) Miss Turner, we have 15 displayed on the screen share what's going to be 16 document 54. It's a two-page document and some 17 tables. 18 Can you summarize for us what this is? 19 A I actually would need to know the date of 20 this document because this table we've revised it 21 several times. 22 This may be the -- I'm not sure if this 23 is -- this looks like -- this is a table that 24 summarizes the different teams that we organized 25 our staff into, the team leads for each and then a</p>
<p>Page 19</p> <p>1 A It requires several steps to log in on and 2 we are reliant on DOC IT support if we have 3 challenges to logging in and accessing that. 4 So we would remote into a DOC computer and 5 then from that computer we would log into the 6 system. But it's fairly straight forward to at 7 least gain access but it does take -- it does take 8 some experience to understand how the system works 9 and our staff have never been formally trained in 10 using the system. So there's a bit of a learning 11 curve for our staff to be able to use it. 12 There's also many different meeting to 13 understand which cameras are where in which 14 particular areas and it takes -- it can take a lot 15 of time to orient yourself to the system. 16 Q Did you and/or anybody else at BOC go 17 through a training process on how to access 18 Genetec footage? 19 A No formal training process, no. 20 Q Do you know what the informal training 21 was? 22 A We put together sort of information -- 23 informational meetings amongst our staff for staff 24 who had more experience using it and I think that 25 experience with staff, you know, gained that</p>	<p>Page 21</p> <p>1 staff assigned. I believe this is after we had 2 reorganized a few months into the pandemic. 3 Q Okay. There's an Emily referred to on the 4 spreadsheet, would that be you? 5 A Yes. 6 Q It shows that you are the team lead for 7 the COVID reporting team. 8 Could you summarize for us what the COVID 9 reporting team does or did? 10 A Yes. The COVID reporting team regularly 11 analyzes different COVID-related metrics including 12 just general population metrics and produces -- 13 would produce daily reports from April 1st 14 through, I believe, June 4th or 6th. 15 And then we transitioned to weekly reports 16 which we have continued to produce since June and 17 continue to post publicly and have been adding 18 various metrics to over the course of the past 19 year and more. 20 Q Miss Turner, can you summarize for us what 21 the process is for producing a BOC weekly report? 22 A Yes. So we receive -- the Board has 23 access -- just as a function of the Board we have 24 access to a number of different data feeds that we 25 have always historically had access to and some</p>

<p style="text-align: right;">Page 22</p> <p>1 that we have tweaked or requested additional 2 access to, actually since the start of the 3 pandemic, made some changes to those feeds. 4 But we combine data from various sources 5 alongside data that we receive on a daily basis 6 from the Department and Correctional Health 7 Services and we track and maintain spreadsheets of 8 the updates that we receive on a daily basis, 9 record that information and then synthesize it 10 into our weekly reports. 11 So there are a number of different sources 12 we use. We have an Inmates in Custody file which 13 is a daily snapshot pulled from the departments in 14 the information system at 11 a.m. That data is -- 15 includes individual inmate specific information 16 and we use that information to produce the 17 population metrics in the weekly report; so 18 looking at the overall population in custody, 19 people in custody by their custody status, whether 20 they are pretrial or sentenced, in a parole 21 violation, et cetera. 22 We match that Inmates in Custody 23 information to separate information that we 24 receive on PRIA screening so that we're able to 25 report information on the population by gender</p>	<p style="text-align: right;">Page 24</p> <p>1 daily updates we've received from CHS -- Monday 2 through Friday we receive updates from CHS on 3 the -- that include -- now include the positivity 4 rate as well as the vaccination information. So 5 how many people in custody have received the 6 vaccination, one dose or completed vaccination, 7 which we started to add those metrics as they 8 become available to our reports. 9 Q The BOC weekly reports that are accessible 10 on the BOC's website, are those reports based on 11 true and accurate information that's kept in the 12 ordinary course of the BOC's business including 13 information that's received from the DOC and kept 14 in the ordinary course of its business? 15 A Yes. 16 Q Same thing for CHS; correct, data you get 17 from them? 18 A Yes, and I will just flag that as we've 19 been alerted to issues we've issued corrections or 20 updates to those reports which are clearly -- I 21 hope clearly labeled on our website where we have 22 made updates to those reports. 23 So I'm thinking specifically about some of 24 the slides where we've needed to update the 25 housing capacity information based on revised</p>
<p style="text-align: right;">Page 23</p> <p>1 identity which is not part of the Inmates in 2 Custody feed that we receive, so we have to do 3 some data merging there. 4 And then we -- the updates that we receive 5 from DOC and CHS that we receive on a daily basis 6 which we manually code and load into our data 7 system is -- includes the housing areas and the 8 COVID designations for those housing areas so that 9 we can know the population that are currently 10 housed in COVID designated areas. And so that 11 information and the number and percent of people 12 in those housing areas is included in the weekly 13 report. 14 And then additionally separately we get -- 15 we have access to the 5 a.m. census information, 16 which we use to analyze housing density or housing 17 capacity. So there's -- since this fall we've 18 been reporting additional slides and information 19 in our weekly reports on housing density, so 20 that's also included. 21 So there's many, many different parts to 22 the report from many different data sources that 23 we combine to produce those metrics on a regular 24 basis. 25 And then most recently we have in the</p>	<p style="text-align: right;">Page 25</p> <p>1 information we receive from the Department. So 2 where we've received any corrections or updates 3 we've issued them. 4 Q Thank you. Miss Turner, I want to ask you 5 a bit about BOC's document retention practices. 6 Do you know what the BOC's policies and 7 procedures are on document retention, how long 8 documents are retained, how long the information 9 underlying a report is retained, et cetera? 10 A I don't actually know -- I believe we have 11 a policy or we definitely issued a document 12 retention policy the start of COVID but I'm not -- 13 I'm not really familiar with it. I don't believe 14 we -- I don't think we have a policy to destroy 15 information but we do have a policy for all staff 16 which we did give several presentations on when we 17 started remote work about the need for all -- for 18 all BOC-related work to be saved to BOC computers 19 and to our shared drive so that has been clearly 20 communicated to all staff. 21 But in terms of like how long that's 22 retained, I don't know that we stop retaining it 23 ever, just the policy is to always save the 24 documents on our shared drive so that we have 25 records and can comply with document requests.</p>

<p style="text-align: right;">Page 26</p> <p>1 Q Thank you. Miss Turner, I want to focus 2 in on what the BOC's observations have been over, 3 say, the past two months, if we can use that 4 period. 5 Can you summarize for us what the BOC's 6 observations have been regarding mask compliance 7 and proper mask wearing over, say, the past two 8 months? 9 A The past two months. In the past two 10 months we've done a number of site -- on-site 11 visits. Those findings have not been the primary 12 findings that we've focused on so I'm not sure I 13 could accurately summarize mask use findings over 14 that -- for the past few months. 15 Q Are you aware of any findings or 16 observations regarding mask use and mask 17 compliance recently? 18 A I would need to consult our notes from 19 those visits to, I guess, provide an accurate 20 response. 21 Q Miss Turner, you mentioned a moment ago 22 that mask compliance hasn't been, if I'm 23 summarizing this correctly, the primary focus of 24 what BOC has been looking at over, say, the past 25 two months.</p>	<p style="text-align: right;">Page 28</p> <p>1 in looking at the services in place at the RMDC 2 facility, which is the facility that houses the 3 young adult population, looking at the resumption 4 of school services there, looking at intake 5 procedures and concerns around the intake 6 procedures there. 7 And then at the EMTC facility, which is 8 the new admissions intake facility, and concerns 9 around the intake process and access to services 10 there. 11 That has been where we have been focusing 12 our attention for the past few -- the most recent 13 visits that the BOC staff have conducted. 14 Q How often do BOC staff conduct visits of 15 Department of Correction facilities? 16 A Well, depends what time period you're 17 talking about. Currently? 18 Q Sure, currently. 19 A Currently we've been going at least -- I 20 would say we've been going once a week to do those 21 visits but not necessarily once a week, so I'd 22 need to just check to confirm. 23 Q And I'm going to try and summarize what I 24 think I've learned from what you've just said but 25 tell me if I'm correct or not.</p>
<p style="text-align: right;">Page 27</p> <p>1 Did I summarize that correctly? 2 A Each of our visits in the past two months 3 have been focused with particular visit goals in 4 mind and specific to mask usage have not been 5 designated as the primary goal of the visits for 6 the past two months, although it's definitely 7 included in the materials that certain visits 8 have -- in some of the materials used to gather 9 information on certain inspections. So I would 10 need to just review those to make sure I'm giving 11 an accurate response on that. 12 Q What have been the goals, primary goals, 13 of the BOC visits over the past two months? 14 A We have done a number of visits related to 15 our restrictive housing, new restricted housing 16 units that the Department has stood up, and so 17 we've been focused on those areas and looking at 18 those areas and information that we've received 19 from people in custody about how those areas -- 20 and staff on how those areas have been operating 21 and also conducted some tours with Board members 22 on -- so that they could see those areas, so that 23 has been one of the key issues. 24 Another, another area of concern where we 25 have done targeted visits are at the RNDC facility</p>	<p style="text-align: right;">Page 29</p> <p>1 What I'm taking is that, first off, BOC 2 staff do not visit every Department of Correction 3 housing facility every week; correct? 4 A Correct. 5 Q And related to that, BOC is an agency that 6 by definition has limited staff and limited 7 resources and therefore it can't focus on every 8 facility at a given point in time. You have to 9 kind of set some priorities and some focus areas, 10 work on that for awhile, and then once you feel 11 you've looked into that issue maybe move onto 12 another issue. 13 Am I -- am I summarizing that correctly? 14 A Yes. 15 Q So this is not a situation where, say, 16 every facility at Rikers and the Vernon C. Bain 17 Center is receiving a regular scheduled visit or a 18 somewhat regular random visit or something like 19 that? 20 A No, we have we don't have the capacity to 21 do that. 22 Q Okay, and -- 23 A I'd like to say that -- 24 Q Go ahead. 25 A Before the pandemic we did have staff</p>

<p style="text-align: right;">Page 30</p> <p>1 assigned to each facility and they would be in the 2 facility on a regular basis.</p> <p>3 Q But that regularity of inspection has 4 declined during the course of the pandemic; 5 correct?</p> <p>6 A Yes, that's fair to say.</p> <p>7 Q When -- when BOC staff -- maybe to make 8 this easier for the transcript I should specify 9 Board or Department and when I say Board I mean 10 the Board of Correction, when I say Department I 11 mean the Department of correction.</p> <p>12 When Board staff go to a Department 13 facility to inspect it, are those inspections 14 random and unannounced or are they scheduled?</p> <p>15 A For the most part they are unannounced 16 although there are certain visits for certain 17 purposes where we would coordinate with the 18 Department to let them know that we would be 19 coming to do a particular inspection, but for the 20 most part we do not announce when we are going to 21 be in the facility.</p> <p>22 Q So just to get a sense of the mechanics, 23 let me say or let's take the example of a Board 24 team that wants to show up and inspect EMTC at 25 Rikers.</p>	<p style="text-align: right;">Page 32</p> <p>1 have direct access to get on the island. We have 2 badges that we can go directly into the facility 3 unannounced and we would typically, although it's 4 not required, we would go and announce to the tour 5 commander or the Warden's office that we were 6 there, that we were going to be doing an 7 inspection and we would proceed with our 8 inspection.</p> <p>9 And then typically we would complete our 10 inspection. On our way out we would probably -- 11 we typically check in with the tour commander, 12 give them a sense of what we found. Any concerns 13 or immediate issues that need to be addressed we 14 would bring to their attention, and then we would 15 leave the facility.</p> <p>16 So there would not be much lead time or 17 notice provided to facility leadership about our 18 visit or our being on site. But we would let them 19 know when we came on site that we were there.</p> <p>20 Q On the things -- the reason I'm asking 21 about this primarily is because one of things that 22 we heard from some of the detainees who testified 23 in this case is that basically a number of 24 correction officers will be lacks on their mask 25 wearing and then when they learn that someone is</p>
<p style="text-align: right;">Page 31</p> <p>1 Can you summarize for us basically from a 2 physical mechanic standpoint how the Board would 3 show up, the Board staff would show up, how they 4 would check in, how much lead time officers might 5 have to know that there's an inspection going on, 6 can you kind of walk us through that?</p> <p>7 A Sure. So we have -- we would -- from a 8 BOC perspective we would do our preparation for a 9 visit with our staff. We would clarify with our 10 staff what the goals of the visit are, where we're 11 going, identify particular areas for the visit 12 based on those goals, whether it be a particular 13 part of the facility like intake or particular 14 housing areas with specific units.</p> <p>15 What we have been doing to prepare for the 16 on-site inspections is detailed review of data 17 related to incidents occurring in the facility, 18 complaints or grievances filed in the facility 19 depending on the goals of the visit to inform our 20 staff before they go in. And so we would do that 21 prep work, have a clear goal for the visit.</p> <p>22 And then our staff would coordinate 23 amongst themselves if they were going in pairs or 24 if they were going by themselves.</p> <p>25 All we need to do is go to the island. We</p>	<p style="text-align: right;">Page 33</p> <p>1 coming around a corridor or someone in authority, 2 whether it's a captain or maybe somebody else, 3 maybe DOC, that they will realize somebody is 4 coming around the corridor and, you know, pull 5 their mask up so it doesn't look like they are out 6 of compliance.</p> <p>7 I guess my question is this. If a 8 correction officer wanted to, you know, pull their 9 mask up would they have at least a little bit of 10 sense that somebody might be coming around the 11 corridor or whatever so they could do that?</p> <p>12 A I don't know that it's immediately 13 apparent to officers that we are the Board versus 14 other DOC staff and civilian staff in the 15 facility. It's not -- we don't routinely wear a 16 uniform that -- we don't have a uniform that would 17 identify our staff. Some staff do have BOC 18 jackets but I don't believe we've been consistent 19 about wearing those on inspections so I don't 20 think that is something that would be apparent to 21 officers. They wouldn't be like, Oh, there's BOC, 22 they are coming. We better put our masks up.</p> <p>23 And I think -- I think from the findings 24 that we've recorded on site it doesn't appear that 25 they are changing their behavior because we are on</p>

<p>Page 34</p> <p>1 site.</p> <p>2 (OFF-THE-RECORD DISCUSSION.)</p> <p>3 Q (By Mr. Keenan) So, Ms. Turner, when you</p> <p>4 mentioned a moment ago that, trying to summarize</p> <p>5 this correctly, that it doesn't seem like</p> <p>6 Department staff, correction officers, have varied</p> <p>7 their conduct based on whether the Board and its</p> <p>8 staff are there or not.</p> <p>9 Tell me what you mean by that.</p> <p>10 A Well, in the visits that I've conducted,</p> <p>11 which is what I can speak to, I don't -- I don't</p> <p>12 recall seeing staff changing their behavior based</p> <p>13 on my presence there. Like I don't recall seeing</p> <p>14 staff adjusting their masks quickly because they</p> <p>15 noticed that I arrived at a housing unit.</p> <p>16 Q Have you observed staff in housing units</p> <p>17 not wearing masks properly?</p> <p>18 A Yes.</p> <p>19 Q Okay. And what is the most recent time</p> <p>20 that you observed any staff in a housing unit not</p> <p>21 wearing a mask properly?</p> <p>22 A The last visit, the last visit I</p> <p>23 conducted, was, I believe, in September of 2020,</p> <p>24 so it's been awhile.</p> <p>25 Q Okay.</p>	<p>Page 36</p> <p>1 correctly, so I would need to review the specific</p> <p>2 documentation from those checklists for the</p> <p>3 particular areas visited to be able to give you an</p> <p>4 accurate answer to that. So that's where that</p> <p>5 would be recorded.</p> <p>6 But, again, given the nature and goals of</p> <p>7 some of the more recent visits, we have not</p> <p>8 completed housing area checklists for -- during</p> <p>9 all of those visits, so there may be some where we</p> <p>10 have and I would need to consult those checklists.</p> <p>11 Q Miss Turner, I also want to ask you about</p> <p>12 another area of focus for today which is</p> <p>13 sanitation, particularly of high-touch surfaces</p> <p>14 and the availability of sanitation supplies.</p> <p>15 Has the Board made any observations</p> <p>16 recently, say, in the past two months about the</p> <p>17 availability or nonavailability of sanitation</p> <p>18 supplies and sanitation of high-touch surfaces?</p> <p>19 A That would have to be recorded on the</p> <p>20 housing area checklist that I referenced before,</p> <p>21 that's where that would be, that information would</p> <p>22 be found.</p> <p>23 MR. KEENAN: We have been going about</p> <p>24 an hour. Would everybody be okay with taking</p> <p>25 maybe about a 15-minute break here?</p>
<p>Page 35</p> <p>1 A It was to the RMSD facility. And I would</p> <p>2 say that on each visit I'd seen some staff wearing</p> <p>3 masks properly and some staff not wearing masks</p> <p>4 properly on each visit that I've conducted. So I,</p> <p>5 myself, was doing on-site inspections from May</p> <p>6 through September but I have not done on-site</p> <p>7 inspections personally since then.</p> <p>8 Q Based on speaking as the Board's</p> <p>9 representative and based on the Board's records,</p> <p>10 more recently in the past, say, two months or so</p> <p>11 has the Board or has its staff made any</p> <p>12 observations about mask wearing or conclusions</p> <p>13 about mask wearing inside Department facilities?</p> <p>14 A We've not made any conclusions about that</p> <p>15 in the past two months.</p> <p>16 Q Do you know if it's -- I know you</p> <p>17 mentioned earlier, it's not really kind of been a</p> <p>18 focus of the inspections over the last two months;</p> <p>19 is that correct?</p> <p>20 A Not the primary focus. I would need to --</p> <p>21 so to the extent that the visits in the past two</p> <p>22 months have involved use of our checklists, our</p> <p>23 housing area checklists, those checklists include</p> <p>24 documentation of how many staff were observed</p> <p>25 wearing masks correctly or not wearing masks</p>	<p>Page 37</p> <p>1 Miss Turner?</p> <p>2 THE WITNESS: That's fine.</p> <p>3 MR. KEENAN: Okay, okay, we'll see</p> <p>4 everybody back in about 15 minutes. I'm going on</p> <p>5 pause the recording.</p> <p>6 (A BRIEF BREAK WAS TAKEN AT THIS TIME.)</p> <p>7 Q (By Mr. Keenan) We are back on the record</p> <p>8 after a break.</p> <p>9 Miss Turner, has the Board noticed any</p> <p>10 overall trends in compliance with mask protocols?</p> <p>11 A Since the start of the pandemic?</p> <p>12 Q Sure, why don't we go from the start of</p> <p>13 pandemic forward, and then if you can focus in on</p> <p>14 what has been observed more recently, but maybe</p> <p>15 we'll do it that way.</p> <p>16 A Sure. Well, I -- we certainly at the</p> <p>17 start of the pandemic in March, in March and</p> <p>18 April, received complaints from people in custody</p> <p>19 and reviewed complaints received by the Department</p> <p>20 about lack of PPE, the lack of masks.</p> <p>21 The Department required -- or issued a</p> <p>22 policy to require masks be provided to people in</p> <p>23 custody, I believe, on April 3rd, maybe that was</p> <p>24 to staff. I'd have to check. I think maybe it</p> <p>25 was April 8th. But in early April started</p>

<p style="text-align: right;">Page 38</p> <p>1 providing masks to people in custody and staff 2 more consistently. And so we did receive 3 complaints about that issue at the start of the 4 pandemic before that policy was put into place and 5 after that policy was put into place.</p> <p>6 The observations that we conducted via the 7 Genetec reports, the specific findings are 8 outlined -- in terms of mask usage are outlined -- 9 for the month of April are outlined, our findings 10 and conclusions, are outlined in those two 11 reports, public reports, that we issued. And I 12 believe we saw something like 80 -- something like 13 80 percent compliance for the first two weeks in 14 April among staff and higher in the 90s, 90 15 percent compliance among staff later in April. So 16 we saw gradually improved staff compliance with 17 mask usage once masks became a policy, the 18 provision of masks became a policy to have masks 19 provided.</p> <p>20 But then we, over the course of the 21 summer, I would say as transmission rates fell, as 22 the prevalence of COVID 19 across the city fell, 23 we saw sort of significant reductions in 24 compliance during our on-site inspections.</p> <p>25 So we were transitioned from doing the</p>	<p style="text-align: right;">Page 40</p> <p>1 when they are in the unit they feel more -- they 2 would feel more comfortable not, not wearing a 3 mask all the time. But when they left the unit 4 they would be putting on a mask if they were 5 having interaction with other, other units.</p> <p>6 But it's hard to make, draw general 7 conclusions because we did see variation in the 8 areas that we visited.</p> <p>9 But I would say sort of, you know, the 10 more -- the more concerned the general public and 11 more anxiety amongst the general public, the more 12 compliance we would see and sort of the less 13 concern or lower transmission. Like in the summer 14 months when we saw people less concerned and less 15 compliant if I had to make a general -- draw a 16 general conclusion.</p> <p>17 Q And from the Board's standpoint, COVID 19 18 has not become any less of a threat during the 19 course of the pandemic, it remains a high threat; 20 correct?</p> <p>21 A Yes, definitely. I mean I think with the 22 hope -- the hope is that with increased 23 vaccination it will become less of a threat but I 24 think we feel very strongly that the need for 25 vigilance remain.</p>
<p style="text-align: right;">Page 39</p> <p>1 Genetec audits to look at and rely primarily on 2 our on-site inspections where we found sort of, I 3 would say, sort of hit or miss compliance, and 4 some instances where we were quite concerned about 5 a lack of staff using masks over the course of the 6 summer.</p> <p>7 And we've each visit -- after each visit 8 we conducted we would flag this as a concern and 9 escalate it with the Department.</p> <p>10 I recall specifically a visit in August 11 where we were very concerned at the lack of 12 consistent mask usage. But since then I think 13 towards the fall we noticed some improved 14 compliance on visits but, again, hit or miss.</p> <p>15 And then amongst people in custody I would 16 say, also depending on the area we were at, there 17 were some units that sort of had developed an 18 understanding that they would all, you know, be 19 better about consistently wearing masks. But many 20 units we would go in where staff and -- where 21 people in custody, I should say, were not 22 consistently wearing masks correctly.</p> <p>23 And I think when we conducted interviews 24 on -- just speaking broadly, when we conducted 25 interviews some folks mentioned that just they --</p>	<p style="text-align: right;">Page 41</p> <p>1 Q Has the Board made any observations about 2 general trends in terms of availability of 3 sanitation supplies and sanitation of high-touch 4 surfaces during the course of the pandemic?</p> <p>5 A We have not made general observations or 6 trends in that area. The findings have been 7 specific to the areas that we've visited.</p> <p>8 We early on sought to try and 9 systematically summarize the audits that we were 10 receiving from the Department. We continue to 11 receive daily audit information from the 12 Department in our daily update, E-mail updates, 13 from DOC.</p> <p>14 So early on we, as part of the Genetec 15 observations, definitely recorded whether or not 16 we saw sanitation occurring, particularly of the 17 phones, specifically of the phones. And that was 18 a concern because that, at the time, we thought 19 that might be one of the ways in which the virus 20 is potentially transmitted and with high-touch 21 surface areas like phones we observed individuals 22 in custody putting socks over phones to try and -- 23 in an attempt to try and protect themselves. And 24 then encouraged the Department to make available 25 or provide guidance to people in custody on how to</p>

<p style="text-align: right;">Page 42</p> <p>1 clean the phones.</p> <p>2 And since making those observations and</p> <p>3 recommendations the Department -- I would say by</p> <p>4 the time we started our on-site inspections in May</p> <p>5 the Department had -- we saw greater consistency</p> <p>6 in the availability of cleaning supplies to clean</p> <p>7 the phones. And in some visits did -- were made</p> <p>8 aware that staff did have some wipes to clean the</p> <p>9 phones, which is a recommendation that we had made</p> <p>10 in one of our Genetec reports.</p> <p>11 So we didn't think -- we don't -- I don't</p> <p>12 believe we've drawn like major conclusions and</p> <p>13 trends in this particular area, and I will say</p> <p>14 over the course of the pandemic this focus on</p> <p>15 sanitation has remained part of one of our -- the</p> <p>16 issues that we monitor via our checklists when we</p> <p>17 do use the checklist for the on-site inspections.</p> <p>18 But we've focused our attention on social</p> <p>19 distancing and housing density because that's been</p> <p>20 the guidance that we've received in terms of how</p> <p>21 transmission occurs. That issue seems to be more</p> <p>22 important for preventing the spread of the virus</p> <p>23 than the sanitation issues, just in terms of</p> <p>24 prioritizing where we are able to focus our</p> <p>25 limited resources and attention.</p>	<p style="text-align: right;">Page 44</p> <p>1 Q If you don't mind just identifying which</p> <p>2 report you're looking at.</p> <p>3 A Sure, let me -- let me find it.</p> <p>4 So in our first report, Genetec report, on</p> <p>5 May 11th, or published May 11th, that covered the</p> <p>6 time period from April 5th to April 16th, we</p> <p>7 recommended that the Department monitor and audit</p> <p>8 COVID 19 sanitation protocols including but not</p> <p>9 limited to cleaning sanitation of housing areas,</p> <p>10 two hourly sanitation of the phones, accessibility</p> <p>11 of sanitation supplies for people in custody to</p> <p>12 clean phones.</p> <p>13 Those were not specifically addressed in</p> <p>14 the Department's audits so whether or not the</p> <p>15 two-hour clean sanitation of phones was occurring</p> <p>16 was not in the -- was not one of the routine items</p> <p>17 in their, in their audit checklist and so that was</p> <p>18 one of the recommendations.</p> <p>19 And then the subsequent report, the</p> <p>20 subsequent report issued on June 8th covering the</p> <p>21 time period of April 19th through April 30th, we</p> <p>22 recommended that Correctional Health Services and</p> <p>23 DOC, excuse me, the Department and the Department</p> <p>24 of Health and Mental Hygiene work together to</p> <p>25 implement a public health campaign to communicate</p>
<p style="text-align: right;">Page 43</p> <p>1 Q Just a general question. From the Board's</p> <p>2 standpoint, would you agree that the Department</p> <p>3 has a duty to protect detainees from threats</p> <p>4 caused to their health by Department staff?</p> <p>5 A Yes.</p> <p>6 Q Is that a yes?</p> <p>7 A Yes.</p> <p>8 Q Okay. And from the Board's standpoint</p> <p>9 would you agree that the Department has a duty to</p> <p>10 protect detainees from threats to their health</p> <p>11 posed by other detainees?</p> <p>12 A Yes.</p> <p>13 Q You mentioned something about availability</p> <p>14 of wipes to clean phones.</p> <p>15 Do you know whether sanitary wipes are</p> <p>16 widely available inside Department facilities?</p> <p>17 A I don't believe that they are.</p> <p>18 Q Can you summarize what the Board's</p> <p>19 recommendations have been regarding sanitary wipes</p> <p>20 and how the Department has responded or not</p> <p>21 responded to that recommendation, please?</p> <p>22 A Would it be okay if I looked at our</p> <p>23 report?</p> <p>24 Q Of course.</p> <p>25 A Our Genetec report?</p>	<p style="text-align: right;">Page 45</p> <p>1 their health risks of what actions people in</p> <p>2 custody and staff should take to protect their</p> <p>3 health. And that specifically we recommended that</p> <p>4 the campaign should address our previous</p> <p>5 recommendations made in the May 11th report,</p> <p>6 including sharing written protocols for how the</p> <p>7 housing COVID 19 designated areas are to be</p> <p>8 managed, social distancing and how housing areas</p> <p>9 and phones are to be sanitized and by whom they</p> <p>10 should be sanitized.</p> <p>11 And then specifically in that report we</p> <p>12 observed phones being used 45 times but we only</p> <p>13 observed them being cleaned three times before</p> <p>14 they were being used.</p> <p>15 One of the challenges, however, with the</p> <p>16 monitoring this issue via the Genetec is that it's</p> <p>17 not always possible from the various camera angles</p> <p>18 to know where supplies were available or not</p> <p>19 available, so that was one of the sort of</p> <p>20 limitations of that review.</p> <p>21 But I do know that in our conversations</p> <p>22 with the Department one of the suggestions we made</p> <p>23 was that whether or not they could provide wipes</p> <p>24 or have staff agree to wipe the phones if wipes</p> <p>25 were available.</p>

<p style="text-align: right;">Page 46</p> <p>1 And so in response since making these</p> <p>2 recommendations the Department started providing a</p> <p>3 bucket with Virex solution and a sponge or cloth</p> <p>4 and the responsibility would be on people in</p> <p>5 custody to clean the phones themselves. They</p> <p>6 would have access to that and clean the phones</p> <p>7 themselves, so they could disinfect that surface</p> <p>8 and protect themselves in that way.</p> <p>9 Q How do you assess the efficacy of having a</p> <p>10 bucket of Virex with a sponge or cloth versus the</p> <p>11 efficacy of making sanitary wipes available to</p> <p>12 clean high-touch surfaces? I should say the</p> <p>13 efficacy and the practicality of it.</p> <p>14 A I think that's sort of hard -- hard to --</p> <p>15 hard for me to say. I think for me personally I</p> <p>16 would rather clean a phone with a wipe than with a</p> <p>17 sponge that's been sitting in a bucket all day</p> <p>18 with Virex solution. But I know there are</p> <p>19 different factors that the Department considers in</p> <p>20 terms of how practical it is to be using wipes or</p> <p>21 asking staff to conduct the cleaning.</p> <p>22 Q Virex, it's a wet liquid solution, right,</p> <p>23 you're basically you'd be like slopping a liquid</p> <p>24 onto the phone just like water almost; right?</p> <p>25 A Yeah.</p>	<p style="text-align: right;">Page 48</p> <p>1 available to detainees to clean high-touch</p> <p>2 surfaces?</p> <p>3 A Can you repeat the question?</p> <p>4 Q Sure. What objections has the Department</p> <p>5 raised to making sanitary wipes available to</p> <p>6 detainees to clean high-touch surfaces?</p> <p>7 A I think in some cases they had at some</p> <p>8 point been making wipes available, so I'm thinking</p> <p>9 specifically of one visit I made to MDC, I believe</p> <p>10 in September, but that was the only -- that was</p> <p>11 the only time where I even learned that they</p> <p>12 were -- that they had been available and the staff</p> <p>13 would make them available upon request.</p> <p>14 But I think there's generally been</p> <p>15 challenges with, you know, with increased anxiety</p> <p>16 among people in custody about the need to be</p> <p>17 cleaning. There's concern that people in custody</p> <p>18 would potentially hoard the cleaning supplies and</p> <p>19 maybe not -- you know, for personal use,</p> <p>20 potentially preventing other people in the unit</p> <p>21 from using those supplies. So that's one, one</p> <p>22 reason why in some cases where the cleaning</p> <p>23 supplies were not directly available to people in</p> <p>24 custody. They needed to go through the A post or</p> <p>25 B post to ask -- to ask officers to provide the</p>
<p style="text-align: right;">Page 47</p> <p>1 Q So like phones they have electronic --</p> <p>2 they are electronic, the water or fluid can seep</p> <p>3 into the handset. I guess for lack of a better</p> <p>4 term you could create quite a mess and maybe</p> <p>5 interfere with the device, I would think; right?</p> <p>6 A Potentially.</p> <p>7 Q As a practical matter, does it seem more</p> <p>8 feasible and readily available to have a sanitary</p> <p>9 wipe to clean that type of surface?</p> <p>10 A I would -- I would think that it would be</p> <p>11 definitely easier to clean with a wipe rather than</p> <p>12 a wet sponge.</p> <p>13 Q For interventions to prevent COVID 19 to</p> <p>14 be effective it's important to make them easy to</p> <p>15 use.</p> <p>16 Would you agree with that?</p> <p>17 A Yes.</p> <p>18 Q As a practical matter people in general,</p> <p>19 whether it's the general public or detainees or</p> <p>20 staff in a correctional facility, are more likely</p> <p>21 to use interventions that are easy to use;</p> <p>22 correct?</p> <p>23 A Yes.</p> <p>24 Q What issues or objections has the</p> <p>25 Department raised regarding making sanitary wipes</p>	<p style="text-align: right;">Page 49</p> <p>1 supplies for them. So that's one reason.</p> <p>2 Just I think that's the main, the main</p> <p>3 concern was not sort of hoarding of the supplies.</p> <p>4 Q Miss Turner, you mentioned a moment ago</p> <p>5 just to make it clear for the transcript, the M as</p> <p>6 in Michael, DC, was that the Manhattan Detention</p> <p>7 Center?</p> <p>8 A Yes, and I apologize for using the</p> <p>9 acronym, sorry.</p> <p>10 Q I think we've all gotten used to these</p> <p>11 acronyms in this thing and in the course of this</p> <p>12 and of course dealing with this Department is your</p> <p>13 full-time job, so you're definitely used to it.</p> <p>14 Let me ask you this, in the one instance</p> <p>15 in which you observed sanitary wipes being made</p> <p>16 available to detainees on request at the Manhattan</p> <p>17 Detention Center, did you observe any problems</p> <p>18 being created by the distribution of sanitary</p> <p>19 wipes on request?</p> <p>20 A No.</p> <p>21 Q To your knowledge or according to the</p> <p>22 Board's records have there been any problems with</p> <p>23 inmates, detainees, hoarding sanitary wipes?</p> <p>24 A No, I mean it hasn't been a wide practice</p> <p>25 because the Virex solution with the buckets has</p>

<p style="text-align: right;">Page 50</p> <p>1 been the primary, and that's been the primary 2 response to the recommendation is, We have Virex 3 available. That's been the response to that 4 recommendation.</p> <p>5 Q Would you agree with me that if the 6 Department has a concern about detainees hoarding 7 sanitary wipes, the answer to that is to make them 8 available on request and not to make them 9 unavailable at all?</p> <p>10 A Well, I think -- I mean I think that would 11 be one -- one way they could address the concern 12 to clean -- to clean the phones.</p> <p>13 Q Has the Board noticed any trends in staff 14 testing, testing for COVID 19?</p> <p>15 A We don't have access to staff testing 16 information.</p> <p>17 Q And same question for staff vaccination 18 trends?</p> <p>19 A We also don't have direct access to that 20 information.</p> <p>21 Q Does the Board have any general knowledge 22 or indirect information regarding trends in staff 23 vaccination or staff testing?</p> <p>24 A I believe we received an update. I don't 25 actually recall if we got a specific percentage or</p>	<p style="text-align: right;">Page 52</p> <p>1 we recently at the most recent Board meeting 2 presented that as of May 4th 25 percent of the 3 population in custody had been completely 4 vaccinated.</p> <p>5 Q Do you know what percentage, I guess, as 6 of May 4th or whatever the most recent date is 7 that you got statistics, what percentage had 8 either been fully vaccinated or had gotten at 9 least one dose?</p> <p>10 A I can check the more recent snapshots that 11 we received but as of May 4th it was 33 percent at 12 least one dose, 25 percent completely vaccinated, 13 two doses or completely vaccinated. The 14 33 percent also includes individuals who received 15 the Johnson and Johnson vaccine, so some of that 16 33 percent would be -- would be completely 17 vaccinated.</p> <p>18 Q And that vaccination statistic is lower 19 than the comparable statistics for a population in 20 New York City as a whole; correct?</p> <p>21 A Yes.</p> <p>22 Q Significantly lower?</p> <p>23 A Yes, I think it will always be a challenge 24 to keep those rates comparable, I believe, because 25 the population in custody is transient. So you</p>
<p style="text-align: right;">Page 51</p> <p>1 numbers on that at the last Board meeting but I 2 know there were some reports in the media. I 3 don't recall the exact percentage but I do recall 4 the concern being -- there being concerns about 5 low vaccination rates among staff, DOC staff.</p> <p>6 Q Has there been any discussion at the Board 7 or among Board staff of why that is or ideas of 8 why there might be a low vaccination rate?</p> <p>9 A We among staff we have, you know, 10 expressed concern. I know that there's definitely 11 availability of vaccines. I, myself, was 12 vaccinated at the Rikers vaccination center and it 13 was concerning to me to see that there weren't 14 more staff taking advantage of it.</p> <p>15 But we have also tried to, when we've been 16 on site, ask staff about whether or not they have, 17 you know, been able to access the services that 18 have been provided to make vaccinations easier for 19 them. I think we don't have a clear sense of why, 20 why they may or may not have chosen to be 21 vaccinated.</p> <p>22 Q Has the Board made any observations about 23 vaccination trends among detainees?</p> <p>24 A Yes, we've been tracking the numbers that 25 Correctional Health has been reporting to us and</p>	<p style="text-align: right;">Page 53</p> <p>1 have people coming in and coming out and the 2 population coming in may not just in general be as 3 likely to access vaccines. So it's not a static, 4 static population.</p> <p>5 Q Let's talk more about that issue, the 6 reluctance to get vaccines among some detainees.</p> <p>7 Is that -- is that an issue that the Board 8 has observed?</p> <p>9 A A reluctance among people in custody?</p> <p>10 Q Yes.</p> <p>11 A I think what we've heard when we've 12 gone -- done on-site inspections since vaccines 13 became available to people in custody, you know, 14 we have heard that they have been offered and many 15 of those we spoke with had actually received 16 vaccines. And so I would say a lot of the same 17 hesitation among people in custody would be the 18 same kind of reasons why people not in custody 19 have been hesitant to receive vaccines.</p> <p>20 Q Has the Board made any recommendations 21 about vaccine education and dealing with some of 22 the false information that's out there about 23 vaccines or misperceptions about vaccines?</p> <p>24 A I don't think we've made any public 25 recommendations on that but we've definitely</p>

<p style="text-align: right;">Page 54</p> <p>1 encouraged the Department and Correctional Health 2 to do all that they can as quickly as they can to 3 vaccine -- vaccinate as many people in custody. 4 I think one of the concerns that was 5 raised most recently at our public Board meeting 6 was about there potentially being limited staff to 7 go housing area to housing area or bring people to 8 clinic to conduct the vaccines. 9 And at the meeting Correctional Health 10 Services, you know, acknowledged that they do 11 have, you know, some limited staff but that they 12 are making -- making efforts and following up to 13 do all that they can to make sure vaccines are 14 available, going directly to populations that may 15 not have as ready access to clinics, for example. 16 That was one of the concerns from the 17 Board's perspective is individuals who are in 18 restricted housing areas and their access to the 19 clinic and vaccines and it being potentially more 20 difficult for them to access the services. 21 But Correctional Health referenced at the 22 meeting that they are going into those housing 23 areas and they are working to try and vaccinate 24 all housing areas. 25 Q Miss Turner, you mentioned earlier in</p>	<p style="text-align: right;">Page 56</p> <p>1 work, review all COVID-related complaints 2 submitted to the Department via 311 or through the 3 Office of Constituent and Grievance Services 4 reporting mechanisms. 5 And so in -- we have direct access to all 6 of those complaints that are filed and 7 systematically reviewed all of those and noticed 8 that a higher percentage of complaints than we've 9 seen -- we had seen previously were coming 10 directly from DOC staff members about their 11 concerns during COVID early on in the pandemic in 12 the first grievance report that we published since 13 the pandemic started in May -- I mean in March and 14 April. 15 We analyzed all COVID-related complaints 16 from March and April and found -- I don't recall 17 the percentage off the top of my head, but I could 18 check the report. We were somewhat surprised to 19 see the number of staff calling and filing 20 complaints about concerns for their own personal 21 safety at that time. 22 But since then we've seen -- that was 23 early on and we haven't seen that trend as -- 24 continue since then. 25 Q Another question, we've been talking about</p>
<p style="text-align: right;">Page 55</p> <p>1 today's deposition a focus that the Board has had 2 on restrictive housing units. 3 Can you summarize what that focus is right 4 now and what that's all about, kind of what you're 5 observing. 6 A Sure. The Board introduced a new proposed 7 rule to limit the Department's use of solitary 8 confinement and punitive segregation to 9 essentially eliminate solitary confinement and 10 punitive segregation in DOC facilities. 11 And that rule is now -- public comment 12 just recently ended, I believe April, maybe it was 13 April -- towards the end of April, I don't know 14 the exact date off the top of my head when public 15 comment ended, but public comment recently ended 16 on that rule and we're working to finalize that 17 set of rules. 18 And so the proposed rule includes a new 19 model for restrictive housing with more out of 20 cell time available to people in custody who would 21 be in those units as a result of a disciplinary 22 hearing process. 23 Q Has the BOC, or the Board, noticed any 24 trends for staff complaints related to COVID 19? 25 A Yes, we, as part of the grievance team's</p>	<p style="text-align: right;">Page 57</p> <p>1 masks and mask compliance. 2 From the Board standpoint would you agree 3 that effective discipline for noncompliance is a 4 vital tool in order to ensure mask compliance by 5 staff? 6 A We think that's an important option for 7 the Department to exercise to enforce compliance. 8 But I think we also recognize that it's also very 9 difficult to work all day in a mask. And so what 10 that discipline looks like, we don't really take a 11 stand on exactly what that looks like, whether 12 it's, you know, a conversation or trying to 13 understand how to improve in that area. 14 Q At this point in the pandemic we're now 15 about 14 months into the pandemic, there can't be 16 any real doubt from a communication or education 17 standpoint that the Department and the Board and 18 public health authorities view it as critical that 19 staff wear masks inside a correctional facility; 20 correct? 21 A Absolutely. 22 Q So the problem at this point -- to the 23 extent that there are correctional staff not 24 wearing masks, the problem at this point really is 25 not an education problem, it's a compliance</p>

<p>Page 58</p> <p>1 problem.</p> <p>2 Is that fair to say?</p> <p>3 A I think so.</p> <p>4 Q If the Board could make any changes right</p> <p>5 now regarding masks and mask compliance by staff</p> <p>6 at the Department, what changes would the Board</p> <p>7 make?</p> <p>8 A Changes to the current policy?</p> <p>9 Q That and/or changes to how they monitor</p> <p>10 and/or enforce the policy.</p> <p>11 A In terms of that, I think I guess the</p> <p>12 recommendation would be to continue enforcement</p> <p>13 efforts and continue our constant reiteration of</p> <p>14 the policy and the prioritization of the policy.</p> <p>15 And I think one of the recommendations I</p> <p>16 think we would make would be for, you know,</p> <p>17 facility leadership to be setting an example and</p> <p>18 modeling, modeling the behavior that -- compliance</p> <p>19 with the policy and the behavior that they expect</p> <p>20 of their staff.</p> <p>21 Q And what recommendations or policy changes</p> <p>22 would the Board make at this point in time</p> <p>23 regarding sanitation of high-touch surfaces,</p> <p>24 including availability of sanitation supplies?</p> <p>25 A At this point we obviously think it's</p>	<p>Page 60</p> <p>1 about or Board sees as especially problematic?</p> <p>2 A Did you say housing areas?</p> <p>3 Q Or facilities that the Board -- are there</p> <p>4 any DOC facilities that the Board sees as</p> <p>5 especially problematic or having particularly</p> <p>6 greater problems than other facilities --</p> <p>7 A With --</p> <p>8 Q -- with respect to COVID 19?</p> <p>9 A With respect to COVID 19?</p> <p>10 Q Yes.</p> <p>11 A I believe that we -- the one facility that</p> <p>12 stands out would be the Eric M. Taylor Center,</p> <p>13 EMTC, which is the new admissions intake. I think</p> <p>14 we have identified concerns there since it</p> <p>15 reopened this -- later this last fall with</p> <p>16 staffing. It's just because intake is so</p> <p>17 important to make sure the COVID protocols are</p> <p>18 followed at intake because that's where most of</p> <p>19 the new, the transmission, would be coming from,</p> <p>20 people outside coming into the -- new admissions</p> <p>21 coming in. That's where most of the positive</p> <p>22 cases have been recorded.</p> <p>23 The conditions at EMTC are of significant</p> <p>24 concern to the Board right now and the lack of</p> <p>25 staffing and leadership. That facility continues</p>
<p>Page 59</p> <p>1 important to continue the efforts to make sure</p> <p>2 that sanitation supplies are routinely available.</p> <p>3 In the visits that we've done recently</p> <p>4 we -- in the times where we haven't seen</p> <p>5 sanitation available it's -- it doesn't seem to be</p> <p>6 a systemic issue, it seems to be just a case of,</p> <p>7 you know, at this -- when we happen to do our tour</p> <p>8 those sanitation supplies happen to be out. So I</p> <p>9 guess we would recommend, you know, continued</p> <p>10 vigilance on that.</p> <p>11 We still, you know, the recommendations</p> <p>12 that were not implemented at the beginning, so we</p> <p>13 still think there probably is some value in making</p> <p>14 sure that their routine audits include looking at</p> <p>15 phone sanitation and the like.</p> <p>16 But our primary, again, our primary focus</p> <p>17 as a Board and in terms of COVID mitigation is to</p> <p>18 reduce having capacity and housing density and to</p> <p>19 make sure that social distancing is occurring,</p> <p>20 because that's the primary mechanism in terms of</p> <p>21 how the virus is being spread, so most of our</p> <p>22 recommendations most recently have centered on</p> <p>23 that.</p> <p>24 Q Are there any facilities inside the</p> <p>25 Department that the Board is especially concerned</p>	<p>Page 61</p> <p>1 to operate as an annex to the Anna M. Kross</p> <p>2 Center, AMKC, the largest jail, rather than have</p> <p>3 its own leadership in place. And we've noted on</p> <p>4 numerous visits, serious concerns about intake</p> <p>5 processes working, many people in the intake</p> <p>6 areas.</p> <p>7 And I don't think those issues have been</p> <p>8 fully yet -- have yet to be fully addressed</p> <p>9 although the most recent tours we've done we've</p> <p>10 received some encouraging response from the</p> <p>11 Department in terms of addressing those issues.</p> <p>12 That would be the one, the one facility that we</p> <p>13 have the most concerns in terms of COVID</p> <p>14 compliance where it's also the most important</p> <p>15 because of the quarantine policies that need to be</p> <p>16 in place there.</p> <p>17 Q I want to understand from the Board's</p> <p>18 standpoint what the Board's understanding is of</p> <p>19 the Department's current policy on staff mask</p> <p>20 wearing in indoor areas.</p> <p>21 From the Board's understanding is the</p> <p>22 Department's current policy that all staff must</p> <p>23 wear masks at all times when indoors or that the</p> <p>24 policy is that staff must wear masks only when</p> <p>25 they are going to be indoors and within six feet</p>

<p>1 or closer of other individuals?</p> <p>2 A I would like to review the policy directly</p> <p>3 just to make sure I'm not misstating it, but my</p> <p>4 understanding is that they would be required to</p> <p>5 wear masks any time they are in a facility</p> <p>6 indoors.</p> <p>7 Q And from the Board's standpoint, is that a</p> <p>8 better policy than having a policy that you only</p> <p>9 have to wear a mask if you're going to be indoors</p> <p>10 and within six feet of people?</p> <p>11 A I think that would certainly afford the</p> <p>12 most protection for everybody although I do see</p> <p>13 there being certain circumstances where there</p> <p>14 might not be a threat to someone sitting alone in</p> <p>15 their office by themselves. You know, if they</p> <p>16 were not in touch -- in contact with other staff</p> <p>17 or people in custody although that's the sort of</p> <p>18 exception.</p> <p>19 Q You say that's the exception? Tell me</p> <p>20 what you mean by that.</p> <p>21 A Well, to a staff being -- how most staff</p> <p>22 would operate.</p> <p>23 Q Most staff inside Department facilities</p> <p>24 are not sitting in an office alone, they are at</p> <p>25 areas where other people are present; correct?</p>	<p>1 Dr. Bobby Cohen is?</p> <p>2 A He's a Board member.</p> <p>3 Q Okay, is he the chair of the Board?</p> <p>4 A No.</p> <p>5 Q Okay. Was he previously -- he previously</p> <p>6 held a position in Correctional Health Services,</p> <p>7 if I'm not wrong?</p> <p>8 A Yes.</p> <p>9 Q And what was his position before he</p> <p>10 retired from that or left that position?</p> <p>11 A That was many years ago. I don't know his</p> <p>12 exact title in that role.</p> <p>13 Q Okay. What facility had Dr. Cohen been</p> <p>14 visiting that this observation was made about mask</p> <p>15 wearing by correctional staff at all levels was</p> <p>16 extremely inconsistent, disturbingly so?</p> <p>17 A I am not sure. I don't want to misspeak.</p> <p>18 If he -- if this is a tour he did with Bennett, I</p> <p>19 know he did -- he recently did a tour, I believe,</p> <p>20 on 4 -- on April 20th, so this would not have been</p> <p>21 that tour. This was probably -- I believe it was</p> <p>22 probably GRVC facility. I don't know the name,</p> <p>23 George, so R, GRVC. G as in George, R as in</p> <p>24 Robert, N as in Nancy, C as in cat. I think this</p> <p>25 is the tour that he conducted of the new</p>
<p>1 A Yeah.</p> <p>2 MR. KEENAN: Could we pull up, Julia,</p> <p>3 will this be Exhibit 55, the E-mail from Dr. Cohen</p> <p>4 dated March 31st.</p> <p>5 (WHEREUPON DEPOSITION EXHIBIT NO. 55 WAS</p> <p>6 MARKED FOR IDENTIFICATION.)</p> <p>7 Q (By Mr. Keenan) Miss Turner, this is</p> <p>8 being marked as Exhibit 55. It's Bate stamped B,</p> <p>9 as in boy, O-C, 201 and following.</p> <p>10 Do you recognize this document?</p> <p>11 A Yes.</p> <p>12 Q Can you summarize for us what it is?</p> <p>13 A This is a summary of findings from a visit</p> <p>14 conducted by our Board member, Dr. Cohen, with my</p> <p>15 colleague, Bennett Stein.</p> <p>16 Q Is Bennett Stein a Board staff person?</p> <p>17 A Yes, he's our director of Policy and</p> <p>18 Communication.</p> <p>19 Q And can you identify for us who the other</p> <p>20 people copied on this E-mail are?</p> <p>21 A Marco Carrion is a Board member.</p> <p>22 Jacqueline Sherman is another Board member.</p> <p>23 Margaret Egan is our executive director and Kate</p> <p>24 McMahon is our acted -- actin general counsel.</p> <p>25 Q And can you identify, again, who Bobby --</p>	<p>1 restrictive housing facilities -- new restrictive</p> <p>2 housing unit at GRVC but I'm not -- I would need</p> <p>3 to confirm.</p> <p>4 Q And this E-mail is dated March 31, 2021;</p> <p>5 correct?</p> <p>6 A Yes.</p> <p>7 Q Do you know what the rest of the bullet</p> <p>8 points in this document are attributable to?</p> <p>9 A I think if this is the visit that I am</p> <p>10 remembering, I think this is -- these were</p> <p>11 concerns about those -- those units, the</p> <p>12 restrictive housing units, their observations and</p> <p>13 concerns from that.</p> <p>14 Q Do you know what those observations and</p> <p>15 concerns related to?</p> <p>16 A Would it be possible for me to just pull</p> <p>17 up my E-mail to confirm?</p> <p>18 Q Sure.</p> <p>19 A I don't want to speculate at this point.</p> <p>20 Q Sure.</p> <p>21 A It would just take me a minute.</p> <p>22 Q Sure, absolutely.</p> <p>23 A I'm just wondering why they aren't visible</p> <p>24 on here, if they have been redacted for some</p> <p>25 reason?</p>

<p style="text-align: right;">Page 66</p> <p>1 Q I don't know. We might have discussed 2 this before in prior deposition with the City's 3 counsel but I can't -- we didn't produce the 4 document, of course, so I don't know personally 5 whether they have been redacted or not? 6 MR. THAYER: I can address that and, 7 Chuck, please correct me if I'm wrong on this. 8 This was redacted because it was internal Board 9 consideration of concerns with the restrictive 10 housing units. And I believe they were redacted 11 as not relevant, and if the case had been about 12 how the Department is handling restrictive 13 housing, I believe Chuck had previously 14 represented that they would have been redacted as 15 still privileged under the peer process privilege. 16 MR. ORSLAND: That's correct, we had 17 sent you a letter with the production, E.E. It 18 was not relevant, had to do with the restrictive 19 housing units which are the subject of the public 20 meeting that was held this week. 21 A Yeah, the rest of the E-mail is about -- 22 it looks like the tour was at, as I recalled, it 23 was at GRVC. They also toured the North Infirmery 24 Clinic facility, NIC, and the concerns were about 25 how the young adult population in restrictive</p>	<p style="text-align: right;">Page 68</p> <p>1 Q Are you aware of more details in terms of 2 the inconsistency of the mask wearing and 3 disturbingly so? I mean I think we kind of get a 4 picture of what's meant by those words, but did 5 Dr. Cohen or anybody else ever offer more 6 specifics on what they observed that led Dr. Cohen 7 to conclude it was extremely inconsistent and 8 disturbingly so? 9 A I don't believe he communicated anything 10 more specific to me. He may have communicated and 11 certainly to the extent he probably communicated 12 those concerns to Margo who joined him and Bennett 13 who joined him on the tour, but not to me 14 directly. 15 Q Has anyone else communicated concerns 16 about continuing inconsistency of mask wearing by 17 correctional staff, say, in the past two months? 18 A Past two months, I don't think so, I 19 think -- I think it's just sort of understood when 20 we -- when we see inconsistencies we are 21 concerned. 22 I know I've seen Genetec footage in the 23 past two months when we've monitored in intake 24 areas the RNDC facility where I've been personally 25 concerned to see staff operating without wearing</p>
<p style="text-align: right;">Page 67</p> <p>1 housing units were being -- the physical space of 2 those units and the specific due process issues 3 related to how those individuals got into these 4 units. 5 But just sort of as an umbrella concern he 6 started with like very -- started with the concern 7 that -- about inconsistent mask usage as a general 8 observation and then went into the more specifics 9 on the physically restrictive housing areas at the 10 NIC facility and the conditions and specific 11 concerns about individuals they spoke with in the 12 ESH housing areas, Enhanced Supervision Housing 13 area, which is one of the restrictive housing 14 units at the GRVC facility. 15 Q (By Mr. Keenan) So this E-mail that 16 Dr. Cohen sent to a group of people, including 17 yourself, was based upon observations from an 18 inspection of GRVC NIC and that's the North 19 Infirmery Command, as well as one other facility; 20 is that correct? 21 A Two facilities, North Infirmery Command 22 and George R. Vierno Center, GRVC. 23 Q Okay, okay, so this E-mail is based on -- 24 based on observations at those two facilities? 25 A Yes.</p>	<p style="text-align: right;">Page 69</p> <p>1 masks properly, so I can recall in the past two 2 months me personally being concerned about it 3 because we do notice it. 4 But we also notice in the same -- in some 5 of the same Genetec observations other areas where 6 we see -- we see good compliance. 7 So it is, I would say, extremely 8 inconsistent in that in some areas you see 9 compliance and some areas you don't see compliance 10 on a routine basis. 11 Q Miss Turner, you had mentioned a 12 particular concern that you and the Board have had 13 about intake areas and that the danger posed in 14 intake areas. 15 Can you sum that up a little more about 16 what the Board's recent observations have been 17 about intake areas and then talk a little more 18 about mask compliance in intake areas? 19 A So intake areas there's -- each facility 20 has an intake area and that is where individuals 21 may be because they have been transferred from 22 another facility or they have been placed in an 23 intake area for -- because there's a need to 24 de-escalate a situation occurring elsewhere in the 25 facility or they are awaiting some other -- some</p>

<p style="text-align: right;">Page 70</p> <p>1 other transfer or change in housing assignment.</p> <p>2 And the Board has, has and is, currently</p> <p>3 concerned about the length of stay of people in</p> <p>4 these areas because they do not have the same</p> <p>5 access to mandated services when they are in these</p> <p>6 areas.</p> <p>7 The areas that are used in intake are pens</p> <p>8 where multiple people are housed and so they may</p> <p>9 not have adequate space for special distancing in</p> <p>10 these areas, and that is one of the main concerns</p> <p>11 particularly concerning when you have, at the EMTC</p> <p>12 facility which I referenced before, which is the</p> <p>13 new admissions intake area.</p> <p>14 So you have people coming into DOC custody</p> <p>15 being processed for new admissions that they</p> <p>16 haven't yet received a medical screen so they are</p> <p>17 sharing space with other people whose COVID status</p> <p>18 is unknown, whose health status is unknown,</p> <p>19 because they have not completed the -- fully</p> <p>20 completed their medical intake at that point.</p> <p>21 And so you have -- at a facility like EMTC</p> <p>22 you have individuals who are still in the process</p> <p>23 of going through the new admission process but you</p> <p>24 also have people who maybe being transferred</p> <p>25 elsewhere sharing, sharing space. And that poses</p>	<p style="text-align: right;">Page 72</p> <p>1 virus once they are exposed.</p> <p>2 Q Miss Turner, you've mentioned before today</p> <p>3 that the Board's current focus, if I'm summing</p> <p>4 this up correctly, is on social distancing and the</p> <p>5 population levels in Department facilities.</p> <p>6 Can you sum up for us what the Board's</p> <p>7 most current concerns and observations are about</p> <p>8 that topic?</p> <p>9 A Certainly. We've watched the population</p> <p>10 increase, the population hit, through the City's</p> <p>11 decarceration efforts, hit a low of around 3800</p> <p>12 individuals in custody at the end of April and</p> <p>13 since then we've seen it increase by approximately</p> <p>14 50 percent back up to even higher than it was</p> <p>15 pre-pandemic.</p> <p>16 Q Okay. You say April you mean April 2020?</p> <p>17 A '20, yeah, correct. And the population is</p> <p>18 now above 5600. So all of the mitigation efforts</p> <p>19 that allowed the Department to successfully or</p> <p>20 somewhat successfully mitigate the spread in</p> <p>21 custody of COVID 19 during the first wave of the</p> <p>22 pandemic was -- we believe was possible because</p> <p>23 the population was so low.</p> <p>24 And now those same mitigation efforts may</p> <p>25 not be as effective with the population where it</p>
<p style="text-align: right;">Page 71</p> <p>1 a risk for a transmission.</p> <p>2 And in general, intakes when you have</p> <p>3 people spending many hours in these areas it can</p> <p>4 lead to tension and issues, incidents that occur</p> <p>5 in these areas that are of great concern for the</p> <p>6 Board.</p> <p>7 Concerns that we flagged most recently</p> <p>8 were about the data systems not accurately</p> <p>9 tracking, the Department not accurately tracking</p> <p>10 individuals and how long they had been in these</p> <p>11 areas.</p> <p>12 Q Would you agree that it's especially</p> <p>13 important that correctional staff be compliant</p> <p>14 with mask requirements during the intake process</p> <p>15 and intake areas?</p> <p>16 A Yes.</p> <p>17 Q Why is that especially important?</p> <p>18 A Well, I think it's important in all areas</p> <p>19 where they are interacting with other people but</p> <p>20 particularly with people who have yet to be</p> <p>21 screened or yet to have completed a screening</p> <p>22 process because there's potential to be exposed</p> <p>23 and then travel around -- how staff travel around</p> <p>24 the facility to escort individuals or otherwise</p> <p>25 move in and out of the facility and transmit the</p>	<p style="text-align: right;">Page 73</p> <p>1 currently stands and so the Board believes that</p> <p>2 decarceration has to be the critical piece of the</p> <p>3 COVID response at this point to make sure because</p> <p>4 social distancing is not possible in jails and</p> <p>5 certainly not possible now with the population</p> <p>6 being what it is.</p> <p>7 Q In other words, the facilities are simply</p> <p>8 too crowded to allow for proper social distancing</p> <p>9 as called for under CDC and other public health</p> <p>10 guidelines; correct?</p> <p>11 A In many cases, yes. I would not</p> <p>12 necessarily say in all units but, yes, in many</p> <p>13 cases.</p> <p>14 Q The overall -- sorry, go ahead.</p> <p>15 A Oh, no, you go.</p> <p>16 Q The overall population of Department</p> <p>17 facilities is higher now than it was before the</p> <p>18 pandemic started; correct?</p> <p>19 A Right, before -- before the first case</p> <p>20 of -- certainly before the first case of COVID 19</p> <p>21 was identified in New York, yes.</p> <p>22 Q And during the course of the pandemic the</p> <p>23 Department has actually closed one or more</p> <p>24 facilities; correct?</p> <p>25 A They -- yes -- what, say that again,</p>

<p>Page 74</p> <p>1 before the pandemic?</p> <p>2 Q During the course of the pandemic.</p> <p>3 A During the course of the pandemic, yes.</p> <p>4 Q Okay. The Manhattan Detention Center is</p> <p>5 one of them; correct?</p> <p>6 A Yes.</p> <p>7 Q Have there been some other overnight</p> <p>8 facilities that -- and residential facilities that</p> <p>9 the Department has closed besides the Manhattan</p> <p>10 Detention Center or is that the only one?</p> <p>11 A Well, the EMTC facility had been closed</p> <p>12 and then reopened.</p> <p>13 Q Okay.</p> <p>14 A To be the overflow for COVID patients</p> <p>15 originally and then it closed and then reopened</p> <p>16 later. I don't have the exact date in front of me</p> <p>17 of when it reopened but I believe it was November,</p> <p>18 may have been November, when it reopened. And so</p> <p>19 it had been -- had been closed, opened, closed and</p> <p>20 they it opened again. And now it's open.</p> <p>21 Q Okay, is it fair to say, I think everybody</p> <p>22 agrees, Manhattan Detention Center is closed, EMTC</p> <p>23 opened up, then closed again, then opened up</p> <p>24 again, would it be fair to say that at this point</p> <p>25 in time the Department has more detainees than it</p>	<p>Page 76</p> <p>1 to open those additional units, so there's --</p> <p>2 there may be space, existing space, that could be</p> <p>3 used, it's just there aren't currently enough</p> <p>4 staff to open more units and that's what the</p> <p>5 Department's reported to the Board.</p> <p>6 Q Got it, okay. So there might be space</p> <p>7 that could be opened and used to house detainees,</p> <p>8 but it is not being used because there aren't</p> <p>9 enough people to staff it?</p> <p>10 A That's my understanding what the</p> <p>11 Department has reported to me.</p> <p>12 MR. KEENAN: Okay, got it. Right now</p> <p>13 it's 12:30 Eastern time and so, I don't know if</p> <p>14 this would be a good time for a lunch break or</p> <p>15 what people feel they want to do on that. We</p> <p>16 certainly want to give everybody a lunch break.</p> <p>17 MR. ORSLAND: It's okay with me. If</p> <p>18 you ended that line of questioning, sure.</p> <p>19 MR. KEENAN: Say that again, Chuck.</p> <p>20 MR. ORSLAND: If you finished the</p> <p>21 topic and this is a good time for you, I think</p> <p>22 it's fine with us.</p> <p>23 MR. KEENAN: Yeah, I think this is</p> <p>24 definitely a workable time for us. So much as I</p> <p>25 found in depositions we always want to set</p>
<p>Page 75</p> <p>1 did before the first case of COVID in New York?</p> <p>2 It has no more space to house them than it did at</p> <p>3 the beginning of COVID in New York?</p> <p>4 In other words, the amount of space, net</p> <p>5 space, available to house detainees has not grown</p> <p>6 during the course of the pandemic even though the</p> <p>7 number of inmates has grown?</p> <p>8 A I don't -- it's a little bit of a</p> <p>9 complicated question because of the opening and</p> <p>10 closing of the EMTC and I would need to confirm</p> <p>11 exactly how many housing units compared to MDC, so</p> <p>12 I can't quite answer that question.</p> <p>13 Q Okay. Okay. All right.</p> <p>14 MR. KEENAN: If everybody would give</p> <p>15 me just a moment I need to deal with an electronic</p> <p>16 issue here. Just a second.</p> <p>17 Thanks for your patience.</p> <p>18 A I think I can't answer the question on</p> <p>19 spacing but I think the issue is less about space</p> <p>20 and more about staffing.</p> <p>21 Q (By Mr. Keenan) Tell me -- tell me more,</p> <p>22 more detail on that, please.</p> <p>23 A Just that there may be units that could be</p> <p>24 opened, I don't know. I would need to look into</p> <p>25 it further. But that it's about having the staff</p>	<p>Page 77</p> <p>1 ambitious targets for how quickly we'll be back</p> <p>2 for lunch, never ends up working out anyway, so</p> <p>3 why don't we reconvene in an hour and pick up</p> <p>4 then. Does that work?</p> <p>5 MR. ORSLAND: It's fine with us, fine</p> <p>6 with me, yeah.</p> <p>7 MR. KEENAN: All right, okay. Thank</p> <p>8 you, we'll pause the recording and see everybody</p> <p>9 back in an hour.</p> <p>10 THE WITNESS: Can you tell me the</p> <p>11 exact time I'm supposed to be in front of the</p> <p>12 screen?</p> <p>13 MR. KEENAN: Yeah, you know, I guess</p> <p>14 that would be 1:35, you know. If you need a</p> <p>15 little more time, though, certainly -- do you?</p> <p>16 THE WITNESS: I think that should be</p> <p>17 fine, thank you.</p> <p>18 MR. KEENAN: Do you want a bit more</p> <p>19 time?</p> <p>20 THE WITNESS: No, I think I'm good.</p> <p>21 MR. KEENAN: Okay, all right, so</p> <p>22 we'll see everybody back at 1:35.</p> <p>23 THE WITNESS: Okay, perfect.</p> <p>24 (NOON RECESS.)</p> <p>25 Q (By Mr. Keenan) Miss Turner, we are back</p>

<p style="text-align: right;">Page 78</p> <p>1 on the record after a lunch break. Thank you for 2 your patience. I resumed the recording on zoom 3 and do you feel ready to proceed with the rest of 4 the deposition at this time? 5 A Yes. 6 Q Okay. All right, so I want to see if we 7 can pull up Exhibit 34, please, which is, I think, 8 a current version or a version of the Department's 9 mask policy. 10 MR. KEENAN: Julia, if you don't mind 11 pulling that up. 12 Okay, I'm going to admit, David. 13 Q (By Mr. Keenan) Miss Turner, do you 14 recognize this as the mask directive from the 15 Department effective March 4, 2021? 16 A Yes. 17 Q Okay, do you see under the policy that it 18 is the policy of the Department that, 1, all staff 19 members able to medically tolerate a face 20 covering, and I'm skipping a bit, must wear one in 21 paraphrasing, when it is not possible for the 22 employee to maintain a distance of six feet or 23 more from another individual? 24 A Um-hum. 25 Q Okay, is that a yes?</p>	<p style="text-align: right;">Page 80</p> <p>1 Q (By Mr. Keenan) We are back on the record 2 after a very short break. We were looking at 3 document 34 when we went on break. I think that 4 that's all that I've got on that document for now, 5 Miss Turner. 6 Then I also want to see if we could take a 7 look, please, at Exhibit 35, which is the CDC 8 guidance. 9 Miss Turner, do you recognize Exhibit 35? 10 A Yes. 11 Q And can you identify what it is? 12 A Interim Guidance on Management of 13 Coronavirus Disease 2019 in Correctional and 14 Detention Facilities. 15 Q Does the Board recommend that the 16 Department fall the interim guidance from the CDC? 17 A Yes. 18 Q Will you agree with me that COVID 19 still 19 poses a significant threat to life, safety and 20 health inside the Department of Corrections 21 facilities? 22 A Yes. 23 Q In addition to the CDC, what other 24 entities or authorities does the Board expect the 25 Department to look to for guidance on how to</p>
<p style="text-align: right;">Page 79</p> <p>1 A Yes. 2 Q Okay, and then next it says strongly 3 recommended that people wear a mask indoors, staff 4 members wear a mask indoors even when they are six 5 feet or more away from other people; correct? 6 A Yes. 7 Q Am I correct in reading this that 8 basically the rule is you have to wear a mask when 9 you are within closer to six feet of people, but 10 that wearing a mask indoors when you're more than 11 six feet away from people while recommended is 12 still optional? 13 A Yes, I think it could be interpreted that 14 way, yes. 15 Q How do you interpret it? 16 A Well, it says that it's required when 17 you're not -- it's not possible, so which suggests 18 that if it is possible that it would not be 19 required. 20 MR. KEENAN: And no sooner do we 21 start here than I need to go get the door, so 22 let's go off the record for just be two minutes 23 here and then I'll come back. Thanks for your 24 patience with the logistics. 25 (OFF-THE-RECORD DISCUSSION.)</p>	<p style="text-align: right;">Page 81</p> <p>1 mitigate the risks of COVID 19? 2 A The Board would expect the Department to 3 work with local health authorities, including the 4 Department of Health and Mental Hygiene and to 5 also be working closely with Correctional Health 6 Services, which is operated by Health and 7 Hospitals here in New York. So that is -- that's 8 what -- those are the other two key entities that 9 the Board would expect the Department to be taking 10 guidance from. 11 Q Thank you. Miss Turner, would you agree 12 that greatest risk of introducing COVID 19 into 13 Rikers and the Vernon C. Bain Center is from staff 14 and officers bringing it in with them because they 15 have contact with the community on a regular 16 basis? 17 A Yes, that and new admissions into custody. 18 Q Miss Turner, would you agree that it's 19 important for staff to follow the COVID guidance 20 including regarding masks because what staff do 21 sets an example for detainees? 22 A Yes. 23 Q And would you agree that the Department 24 has an affirmative duty to mitigate the risk of 25 COVID 19 in its facilities to the greatest extent</p>

<p>Page 82</p> <p>1 possible?</p> <p>2 A Yes.</p> <p>3 Q I want to ask you a bit about Exhibit 35.</p> <p>4 Does the Board of Correction, and I'm</p> <p>5 going to get to the relevant portion, Exhibit 35,</p> <p>6 and I can tell you what page it's on. Julia, do</p> <p>7 you mind taking us there to the page about</p> <p>8 cooperative surgical masks.</p> <p>9 Okay, I think this will be on page,</p> <p>10 unfortunately this is not paginated, page 9, no,</p> <p>11 forgive me, page 10 under Hygiene on Exhibit 35.</p> <p>12 Almost there, okay, great.</p> <p>13 Miss Turner, do you see this highlighted</p> <p>14 area, page 10 of Exhibit 35 regarding use of cloth</p> <p>15 masks versus surgical masks, N95 respirators?</p> <p>16 A Yes.</p> <p>17 Q Would you agree with me that staff inside</p> <p>18 the Department should wear surgical masks or N95s</p> <p>19 rather than just cloth masks?</p> <p>20 A Yes.</p> <p>21 MR. KEENAN: Julia, could you please</p> <p>22 pull up Exhibit 19.</p> <p>23 Q (By Mr. Keenan) Miss Turner, do you</p> <p>24 recognize Exhibit 19?</p> <p>25 A Yes, a teletype, the distribution of masks</p>	<p>Page 84</p> <p>1 wearing a mask, what real value is additional</p> <p>2 education going to be to people who have 14 months</p> <p>3 into the pandemic just decided, I'm not wearing a</p> <p>4 mask?</p> <p>5 A I mean if there's that level of resistance</p> <p>6 I don't know -- in any particular case if there</p> <p>7 was that level of resistance I think that will be</p> <p>8 appropriate to issue discipline at that point.</p> <p>9 MR. KEENAN: Could we bring up what</p> <p>10 will be the next Exhibit No. 56, Julia.</p> <p>11 (WHEREUPON DEPOSITION EXHIBIT NO. 56 WAS</p> <p>12 MARKED FOR IDENTIFICATION.)</p> <p>13 MS. GOKHBERG: Yes.</p> <p>14 Q (By Mr. Keenan) DOC monitor sanitation</p> <p>15 report from 2020. Before I ask about this</p> <p>16 document in particular, Miss Turner, would you</p> <p>17 agree that resistance to wearing masks or to</p> <p>18 properly wearing them doesn't just come from the</p> <p>19 bottom up of the command chain, it can also be</p> <p>20 coming from the top of the command chain by not</p> <p>21 enforcing the mask mandate?</p> <p>22 A Yes, it can.</p> <p>23 Q We're looking -- and do you have any --</p> <p>24 has the Board reviewed the disciplinary actions or</p> <p>25 lack of them at the Department to see whether the</p>
<p>Page 83</p> <p>1 issued April 3, 2020.</p> <p>2 MR. KEENAN: Julia, can you take us</p> <p>3 to page 5, paragraph 8, please.</p> <p>4 MS. GOKHBERG: Sorry, I think --</p> <p>5 wrong exhibit, one moment.</p> <p>6 MR. KEENAN: Okay.</p> <p>7 Q (By Mr. Keenan) While we wait for that</p> <p>8 exhibit to come up, Miss Turner, does the BOC</p> <p>9 recommend -- does the Board recommend that the</p> <p>10 Department discipline staff who don't follow mask</p> <p>11 guidelines a second time?</p> <p>12 A The Board doesn't make a specific</p> <p>13 statement to that effect.</p> <p>14 Q Okay.</p> <p>15 A But we do think that discipline is</p> <p>16 important, an important management tool and way to</p> <p>17 ensure compliance. But that it needs to be part</p> <p>18 of a comprehensive strategy of relentless</p> <p>19 engagement with staff to reiterate the importance</p> <p>20 of compliance across, across the Board.</p> <p>21 Q I want to probe that a little bit.</p> <p>22 14 months into the pandemic when the</p> <p>23 message has been communicated again and again and</p> <p>24 again both through general public media outlets as</p> <p>25 well as inside the Department the importance of</p>	<p>Page 85</p> <p>1 mask mandate on staff is being effectively</p> <p>2 enforced?</p> <p>3 A We have not reviewed disciplinary records</p> <p>4 regarding discipline imposed for failure to comply</p> <p>5 with mask -- mask mandates. We have not reviewed</p> <p>6 those records.</p> <p>7 Q Why is that?</p> <p>8 A I don't know that we've actually requested</p> <p>9 records for review. I think we have asked about,</p> <p>10 I believe, about -- I would need to confirm in our</p> <p>11 E-mails and check with my colleagues, but I</p> <p>12 believe we've asked about whether it's occurring.</p> <p>13 But we have not asked for specific documentation</p> <p>14 to that effect.</p> <p>15 Q Are you aware of the distinction between</p> <p>16 command discipline and formal discipline through</p> <p>17 the memorandum of complaint process?</p> <p>18 A I'm aware of it but I'm not familiar with</p> <p>19 the specifics of what that involves.</p> <p>20 Q We have here document 56.</p> <p>21 Is this a Board of Correction document</p> <p>22 produced and maintained by the Board in the course</p> <p>23 of its business?</p> <p>24 A Yes.</p> <p>25 Q And this is a true and correct copy of</p>

<p>1 that?</p> <p>2 A Yes, I'm not sure of the exact date of</p> <p>3 this document.</p> <p>4 Q Okay. I think it says April 10, 2020.</p> <p>5 Would it be for roughly that period?</p> <p>6 A Okay, yeah, I think this was more of an</p> <p>7 internal document that we were keeping track of</p> <p>8 various questions that had been posed in various</p> <p>9 contexts and calls just so we could internally</p> <p>10 keep track of what we had asked for and where we</p> <p>11 had received responses or not received responses.</p> <p>12 There's a lot -- there are a lot of</p> <p>13 questions going back and forth at this time, so I</p> <p>14 believe that's what I'm looking at right now is an</p> <p>15 internal document for us to keep track of that.</p> <p>16 Q Thank you.</p> <p>17 MR. KEENAN: Let's go ahead and pull</p> <p>18 up exhibit, what will be, Exhibit 57. It's Bates</p> <p>19 stamped BOC 6854, that's B, for Board, O-C 6854.</p> <p>20 (WHEREUPON DEPOSITION EXHIBIT NO. 57 WAS</p> <p>21 MARKED FOR IDENTIFICATION.)</p> <p>22 Q (By Mr. Keenan) Miss Turner, do you</p> <p>23 recognize this document?</p> <p>24 A Yes.</p> <p>25 Q Can you identify it for the record what it</p>	<p>Page 86</p> <p>1 look at the document Bate stamped 6859 from the</p> <p>2 Board. This will be Exhibit 58.</p> <p>3 (WHEREUPON DEPOSITION EXHIBIT NO. 58 WAS</p> <p>4 MARKED FOR IDENTIFICATION.)</p> <p>5 Q (By Mr. Keenan) Miss Turner, do you</p> <p>6 recognize Exhibit 58, can you identify it, please?</p> <p>7 A Yes, this is an E-mail thread regarding</p> <p>8 cleaning and sanitation policies and I believe</p> <p>9 this was our trying to understand the precise DOC</p> <p>10 policies currently in effect for cleaning and</p> <p>11 sanitation such that we could try and monitor</p> <p>12 against those policies during April of 2020.</p> <p>13 MR. KEENAN: Next let's take a look</p> <p>14 at Board document Bate stamped 6908. This will be</p> <p>15 Exhibit 59.</p> <p>16 (WHEREUPON DEPOSITION EXHIBIT NO. 59 WAS</p> <p>17 MARKED FOR IDENTIFICATION.)</p> <p>18 Q (By Mr. Keenan) Miss Turner, can you</p> <p>19 please identify what's been marked as Exhibit 59</p> <p>20 for the record?</p> <p>21 A It looks like an E-mail thread from --</p> <p>22 which include response to the Board's questions on</p> <p>23 COVID 19 sanitation practices that we received on</p> <p>24 May 4, 2020.</p> <p>25 Q Thank you.</p> <p>Page 88</p>
<p>1 is?</p> <p>2 A Looks like an E-mail thread regarding the</p> <p>3 sanitation audits and the Board's questions on</p> <p>4 regarding the sanitation audits from April 2020.</p> <p>5 Q Okay. And we're going to be going through</p> <p>6 a lot of documents, probably relatively quickly,</p> <p>7 in order to move things along.</p> <p>8 Implicit in all of my questions but I</p> <p>9 don't want to take up space on the transcript so I</p> <p>10 just want to have this understanding, implicit in</p> <p>11 all my questions is whether this is a Board of</p> <p>12 Correction document kept and maintained in the</p> <p>13 course of the Board's business and is a true and</p> <p>14 correct copy of that document.</p> <p>15 So can we have that understanding when I</p> <p>16 ask you to identify documents that I'm asking</p> <p>17 that?</p> <p>18 A Yes.</p> <p>19 Q Okay. And we talked about this off the</p> <p>20 record, but you are a lawyer; correct?</p> <p>21 A Yes.</p> <p>22 Q So I think you understand kind of this</p> <p>23 procedure more than, more than most witnesses</p> <p>24 would.</p> <p>25 MR. KEENAN: So let's go ahead and</p>	<p>Page 87</p> <p>1 MR. KEENAN: Next let's take a look</p> <p>2 at what will be marked as Exhibit 60. This is</p> <p>3 Board document Bate stamped 43.</p> <p>4 (WHEREUPON DEPOSITION EXHIBIT NO. 60 WAS</p> <p>5 MARKED FOR IDENTIFICATION.)</p> <p>6 Q (By Mr. Keenan) Miss Turner, can you</p> <p>7 please identify for the record what Exhibit 60 is?</p> <p>8 A This is an internal document outlining our</p> <p>9 complaint team policies for how we would address</p> <p>10 complaints received by the Department -- Board of</p> <p>11 Correction directly and how we would monitor COVID</p> <p>12 19-related complaints in our data management</p> <p>13 system.</p> <p>14 MR. KEENAN: Next let's look at Board</p> <p>15 document, and when I say Board document I'm going</p> <p>16 to be referring to documents that are Bate stamped</p> <p>17 B, as in boy, O-C and then a number, I'll just</p> <p>18 call it Board document and then the number so we</p> <p>19 don't get confused by the B versus the D.</p> <p>20 So this is going to be Board document 91,</p> <p>21 page 91, starting there. This will be Exhibit 61.</p> <p>22 (WHEREUPON DEPOSITION EXHIBIT NO. 61 WAS</p> <p>23 MARKED FOR IDENTIFICATION.)</p> <p>24 Q (By Mr. Keenan) Miss Turner, can you</p> <p>25 please identify Exhibit 61?</p> <p>Page 89</p>

<p>Page 90</p> <p>1 A This is the Board's public report 2 published June 8th of 2020 summarizing complaints 3 received by the Department of Correction from 4 March 5th to April 30, 2020. 5 MR. KEENAN: Julia, could we please 6 go to page 7 of this document. 7 Q (By Mr. Keenan) Miss Turner, could you 8 please identify what the table on page 7 of 9 Exhibit 62 -- rather 61, refers to? 10 A Yes, I can. This table includes the more 11 detailed complaint -- COVID-related complaint 12 categories that our staff coded in reviewing all 13 COVID 19-related complaints received by the 14 Department's Office of Constituent Grievance 15 Services. 16 So for this report our staff reviewed 17 any -- any complaint that the Department had 18 categorized as a COVID 19 complaint. They use 19 three broader categories including environmental, 20 medical, Health and Hospitals, H and H, and staff 21 as the three main categories. 22 And what our staff did was in reading and 23 reviewing those complaints or grievances filed or 24 requests for information filed with the 25 Department, we further coded them into</p>	<p>Page 92</p> <p>1 information for the rest of 2020. 2 Q Let's go to page 2, please. 3 One thing the Board notes is that during 4 this period between May and December 2020 jail 5 population increased by 29 percent; correct? 6 A Correct. 7 Q Let's go to page 3, please. The Board 8 makes a number of recommendations on page 3; 9 correct? 10 A Yes. 11 Q And the very first recommendation the 12 Board makes is that the Department should reduce 13 housing area capacity and prioritize 14 decarceration; correct? 15 A Correct. 16 Q Let's go to page 5, please. We can see on 17 the bar chart on page 5 that while there was a dip 18 in grievances in December, the general observation 19 is that the grievances seem to be associated with 20 the population of the Department; correct? 21 A Correct. 22 Q And while grievances went down 23 precipitously between March 2020 and June 2020, 24 they then started increasing significantly after 25 that point; correct?</p>
<p>Page 91</p> <p>1 sub-categories with some additional specificity to 2 indicate what those complaints were about and 3 that's what's reflected here in this table. 4 MR. THAYER: Mr. Keenan, I just want 5 to jump in. I believe you mentioned that this was 6 table 7, and just for the sake of the record, it's 7 table 3 on page 7, just for the record. 8 MR. KEENAN: Thank you. Next let's 9 go to what's going to be Exhibit 62. This will be 10 Board document 106. 11 (WHEREUPON DEPOSITION EXHIBIT NO. 62 WAS 12 MARKED FOR IDENTIFICATION.) 13 Q (By Mr. Keenan) Miss Turner, can you 14 please identify Exhibit 62 for us? 15 A Yes, this is the Board's second 16 COVID-related grievance report, public report, 17 published March 8th of 2021 providing an update to 18 the initial report published in June with 19 information on all grievances received by the 20 Department of Corrections, Office of Constituent 21 and Grievance Services from May 1st to 22 December 31, 2020. 23 Q This is functionally the same type of 24 report as we saw in Exhibit 61? 25 A Yes, it's an update with the additional</p>	<p>Page 93</p> <p>1 A With the increase in the population. 2 Q Sure. But the increase we see in the 3 grievances is not in direct proportion to the 4 increase in the population, for instance, the 5 population is increasing by, say, between June and 6 November -- between June and November/December 7 timeframe the population is increasing by about 8 20 percent but the number of grievances related to 9 COVID is increasing by more than 200 percent; 10 correct? 11 A Correct, and I think this increase mirrors 12 the increase in transmission rates -- 13 Q Okay. 14 A -- across New York City as well. The 15 COVID-related concerns, we see that tracking just 16 concerns across the city, really, into the 17 increase in COVID transmission as well. 18 Q Can we go to pages 16 and 17, please. 19 Can you describe for us, please, 20 Miss Turner, what the Board's process and function 21 is in handling grievances? 22 A So the Board in its oversight capacity has 23 oversight over how the Department handles 24 grievances it receives. 25 And so we review the grievance, monitor</p>

<p style="text-align: right;">Page 94</p> <p>1 and review the grievances received by the 2 Department. We've provided comment and feedback 3 on their grievance policy and practice and how 4 they are documenting grievances and the resolution 5 of their grievances. And we've also been auditing 6 resolutions related to those grievances. 7 And this is something that we've started 8 to build the Board's capacity around using the 9 Board's access to this information, which we have 10 direct access to the system of record for all 11 grievances received by the Department, which is 12 called service -- Service Desk system, it's a 13 ticketing system that documents all of the 14 grievances or requests for information received by 15 the Department either directly or referred via the 16 City's 311 information system. 17 MR. KEENAN: Let's go to the next 18 page, please, Julia. 19 Q (By Mr. Keenan) Is this the most recent 20 report regarding grievances related to COVID? 21 A This is the most recent public report the 22 Board has issued. 23 Q Is there a report that's more recent that 24 has not been made public? 25 A We are working on another report that's</p>	<p style="text-align: right;">Page 96</p> <p>1 you know, kind of crosswalk that with what we've 2 seen from the Department system. 3 So we would review, for example, before 4 going on site we would review specific complaints 5 from particular housing areas we were going to 6 visit in both that the Board had received as well 7 as what we received in this -- in this Service 8 Desk or could review in the Service Desk system. 9 So we've done reviews of that -- of that nature 10 for particular visits in particular areas. 11 But I can't really speak to broader 12 conclusion. 13 Q Have there been any specific things that 14 you or anyone else at the Board has noticed, to 15 your knowledge, in terms of grievances in the past 16 several months that stood out? 17 A I know that in general there are a lot of 18 concerns about increase in violence at RNDC, the 19 RNDC facility, increase in -- concerns about the 20 access to the mail system are frequently brought 21 to our attention, but I wouldn't want to comment 22 further. 23 Q What's the increase in violence at RNDC 24 about? Do you know whether there are any ideas 25 on, 1, whether there is, in fact, an increase in</p>
<p style="text-align: right;">Page 95</p> <p>1 not ready to be published, but we also do a lot of 2 internal analysis on the grievance system and 3 review grievance -- review of the grievance system 4 internally and provide feedback directly to the 5 Department in that -- on the reviews that we've 6 conducted internally. 7 Q What were the key observations that the 8 Board has in this report that hasn't been released 9 yet, and just more generally the data the Board 10 has been looking at regarding grievances in 2021? 11 A I am not personally leading that work so I 12 would not want to comment and share our findings. 13 I would not be able to speak to that. I'm not 14 really able to speak to that, those issues. 15 Q What have you heard about it, has anybody 16 said anything at the Board about, These are some 17 of the trends we're seeing for January 1, 2021, 18 for the residents in terms of grievances? 19 A It depends on the particular area or 20 facility. We've heard, you know, certain issues 21 have come up where we've received external 22 complaints direct thorough -- in addition to this 23 work that's referenced in this public report we 24 also received complaints and concerns directly 25 from people in custody or the public and then we,</p>	<p style="text-align: right;">Page 97</p> <p>1 violence and, 2, what it might be attributable to? 2 A I think that's -- there have been a lot of 3 management challenges around the young adult 4 population, that's the young adult facility where 5 most young adults are housed. There's a lot of 6 gang-affiliated individuals and so I think that's 7 playing a role there. 8 You've also receive -- one other -- I 9 guess one other trend from this year is -- in 10 complaints which has been driving the on-site 11 visits that we've conducted, which I mentioned 12 earlier, is the movement of the restrictive 13 housing units from the Otis Bantum Correctional 14 Center, the OBCC facility, to the GRVC facility 15 and that transition was -- there were a lot of 16 challenges around that transition, many complaints 17 coming from those units, restrictive housing 18 units, recently opened at GRVC, increase in the 19 number of fires in custody there, lack of access 20 to mandated services there, a lot of problems with 21 how those units were opened and moved that drew 22 our attention. And we received a lot of 23 complaints about -- from those particular areas. 24 MR. KEENAN: Let's go to what is 25 going to be Exhibit 63. This is Board document</p>

<p>Page 98</p> <p>1 2194. 2 (WHEREUPON DEPOSITION EXHIBIT NO. 63 WAS 3 MARKED FOR IDENTIFICATION.) 4 Q (By Mr. Keenan) Miss Turner, can you 5 identify Exhibit 63 for us, please. 6 A This is an E-mail exchange between Board 7 staff member Katrina Blackman and Health and 8 Hospital staff Kimar Clarke. Looks like it is 9 related to a tour that our staff conducted of the 10 EMTC facility. 11 MR. KEENAN: Let's go to document 64. 12 This will be Board document 5948. 13 (WHEREUPON DEPOSITION EXHIBIT NO. 64 WAS 14 MARKED FOR IDENTIFICATION.) 15 Q (By Mr. Keenan) Miss Turner, can you 16 identify Exhibit 64 for us, please? 17 A Can you show me the rest of the document? 18 Q Sure. 19 A This looks like a letter sent from Council 20 member Powers and I believe it was Lancman, 21 Council member Lancman, regarding COVID 19 22 responses in the jails as well as some questions, 23 I believe, about addressing the housing of 24 heat-sensitive individuals in custody and directed 25 at Commissioner Brann, director of the Mayor's</p>	<p>Page 100</p> <p>1 challenge faced by the Department but it's even 2 more challenging when you are trying to keep those 3 units at a reasonable capacity to facilitate 4 social distancing. 5 Q And that concern is going to arise again, 6 now, in 2021 as we're entering warm summer 7 weather; correct? 8 A Correct. 9 Q Between summer 2020 and summer 2021 are 10 you aware of the Department having changed 11 anything about how it handles the problems set 12 forth in Exhibit 64? 13 A We -- I believe I would need to confirm 14 when we issued our preliminary report from last 15 summer. I believe it was on a Board meeting 16 agenda either later last summer or early fall 17 where they responded to our initial findings. So 18 I would need to consult that more closely to 19 identify those changes. 20 I know that last summer when we were 21 monitoring heat conditions they had made some 22 changes to their inmate information system so that 23 they could more easily track and identify 24 heat-sensitive individuals and heat-sensitive 25 units. So I know that a lot of work went into</p>
<p>Page 99</p> <p>1 Office of Criminal Justice, Elizabeth Glazer, and 2 Dr. Patricia Yang, senior vice president of 3 Correctional Services. 4 Q How do concerns about heat and -- heat in 5 jails, especially during summer months, relate to 6 COVID 19? 7 A Well, one of the challenges at play last 8 summer during while trying to maintain COVID 9 mitigation strategies, the Department also needed 10 to address how -- its housing of heat 11 sensitive-individuals. And that's particularly 12 challenging because not all units at the 13 Department of Correction are air conditioned or 14 can accommodate heat-sensitive individuals. 15 And so while, you know, while we were 16 encouraging the Department to maintain low housing 17 capacity as much as possible to facilitate social 18 distancing, there was sort of the overlaying 19 challenge of ensuring that heat-sensitive 20 individuals were being housed in air conditioned 21 units. 22 So there's some effort to every summer, 23 regardless if there's a pandemic, there's an 24 effort to consolidated heat-sensitive individuals 25 in air conditioned units and it's always a</p>	<p>Page 101</p> <p>1 this last summer while we were back and forth 2 providing feedback on what we were finding. 3 And then we also have this issue and a 4 request for an update on the Department's summer 5 heat plans. And we've not finalized the agenda 6 for the June meeting but we expect that to be on 7 the agenda. It may be subject to change the 8 agenda but we expect that to be on the agenda for 9 the June 8, 2020, Board meeting to get -- receive 10 an update from the Department on this issue. 11 MR. KEENAN: Let's look at what's 12 going to be Exhibit 65. This is Board document 13 124. 14 (WHEREUPON DEPOSITION EXHIBIT NO. 65 WAS 15 MARKED FOR IDENTIFICATION.) 16 Q (By Mr. Keenan) Miss Turner, can you 17 please identify Exhibit 65? 18 A This is a letter dated December 24, 2020, 19 from, I believe it's the -- I need to see the 20 second page, but I think this is coming from our 21 Board Chair, yes, it's coming from our Board 22 Chair, Jennifer Jones Austin, and Jackie Sherman, 23 the Chair of the Board's Prison Death Review 24 Board, sharing findings from the Board's review of 25 three deaths in custody related to COVID 19.</p>

<p>Page 102</p> <p>1 Q What is the Prison Death Review Board?</p> <p>2 A That is an internal group that is chaired</p> <p>3 by a Board member, Jackie Sherman, and includes</p> <p>4 our Board Chair and two other Board members.</p> <p>5 They are tasked with reviewing staff's</p> <p>6 findings with respect to deaths in custody with</p> <p>7 the goal of preventing future deaths in custody</p> <p>8 and to identify systemic failures or opportunities</p> <p>9 to improve policies such that we would be able to</p> <p>10 prevent deaths in custody.</p> <p>11 And the Board, sort of the internal Board</p> <p>12 within our Board, focused on the review of prison</p> <p>13 deaths meets with DOC -- Department leadership as</p> <p>14 well Correctional Health leadership to share</p> <p>15 findings and discuss the findings of our review,</p> <p>16 our staff's review, of these incidents.</p> <p>17 MR. KEENAN: Let's look at</p> <p>18 Exhibit 66, please. This will be Board document</p> <p>19 12.</p> <p>20 (WHEREUPON DEPOSITION EXHIBIT NO. 66 WAS</p> <p>21 MARKED FOR IDENTIFICATION.)</p> <p>22 A This is an internal draft report on COVID</p> <p>23 19 deaths in custody. This is their report that</p> <p>24 was referenced in the previous exhibit, which was</p> <p>25 the letter to the Mayor, sharing our findings on</p>	<p>Page 104</p> <p>1 I've not been a party to the internal discussions</p> <p>2 of the Prison Death Review Board, but that's my</p> <p>3 understanding from other DOC leadership is the</p> <p>4 next step here would be to meet with the agencies</p> <p>5 and obtain their feedback, specific feedback, on</p> <p>6 the recommendations so that we could release the</p> <p>7 report.</p> <p>8 Q So these, the three in-custody deaths,</p> <p>9 that are referred to in this report occurred in</p> <p>10 April 2020 probably?</p> <p>11 A Yes.</p> <p>12 Q Okay, and then the Board completed its</p> <p>13 report in December 2020; correct?</p> <p>14 A Actually I'm not -- I don't want to speak</p> <p>15 out of turn. I would need to -- I believe the</p> <p>16 deaths occurred in April 2020 but I would want to</p> <p>17 confirm that in the document, the dates.</p> <p>18 Q That's -- that's what's the title of the</p> <p>19 document says, right, April 2020?</p> <p>20 A Yes, yes.</p> <p>21 Q Yes, okay.</p> <p>22 A That's correct.</p> <p>23 Q And then Board completes its report</p> <p>24 December 24, 2020; correct?</p> <p>25 A Yes.</p>
<p>Page 103</p> <p>1 these deaths in custody.</p> <p>2 Q (By Mr. Keenan) Okay. I know there's</p> <p>3 some redactions on this; correct?</p> <p>4 A Yes, that's because the Board has not yet</p> <p>5 reviewed the -- met with agencies to obtain their</p> <p>6 feedback on the recommendations that were issued</p> <p>7 in this report, so the recommendations that have</p> <p>8 come out of the report have been redacted.</p> <p>9 Q And this report was issued back in</p> <p>10 December of 2020 and it's still not in final form</p> <p>11 or --</p> <p>12 A That's correct.</p> <p>13 Q How come it's taken that long?</p> <p>14 A That's a good question. I think it's a</p> <p>15 matter of -- matter of Board capacity and the</p> <p>16 availability of our Board members to convene and</p> <p>17 coordinate with the Department and Correctional</p> <p>18 Health to meet to discuss these findings.</p> <p>19 Q So from my impression the Board has</p> <p>20 already issued its report and it's waiting</p> <p>21 basically on feedback or a response from various</p> <p>22 agencies like the Department; correct?</p> <p>23 A Yes, but I think the goal is to make sure</p> <p>24 that there's a conversation between the Board and</p> <p>25 the Department. That's my understanding of --</p>	<p>Page 105</p> <p>1 Q And here we are now in May 2021; correct?</p> <p>2 A Correct.</p> <p>3 Q As someone whose job it is to oversee or</p> <p>4 help oversee and monitor what's going on in</p> <p>5 Department facilities, are you concerned that a</p> <p>6 year and a month is a little too long to wait to</p> <p>7 have kind of some -- to have action items in place</p> <p>8 about deaths that occurred a year and a half ago?</p> <p>9 A Yes.</p> <p>10 Q And the ball is really in the Department's</p> <p>11 court at this point, right, to get back with its</p> <p>12 comments about this December 2020 report?</p> <p>13 A I'm not entirely sure whose ball -- whose</p> <p>14 court the ball is in at this point.</p> <p>15 I think the -- I think at this point my</p> <p>16 understanding is it's a scheduling issue but also</p> <p>17 a Board staff -- a Board member availability issue</p> <p>18 to convene that group.</p> <p>19 I mentioned in previous testimony that the</p> <p>20 Board has been focused on or issuing restrictive,</p> <p>21 new restrictive, housing rules and that has been</p> <p>22 the immediate priority of the Board to issue those</p> <p>23 new proposed rules and to quickly move to</p> <p>24 finalizing those rules. And I believe that has</p> <p>25 contributed to part of the delay in the process of</p>

<p style="text-align: right;">Page 106</p> <p>1 finalizing this report and releasing this report.</p> <p>2 But it also would depend on the Prison</p> <p>3 Death Review Board's decision whether or not this</p> <p>4 would be released as a public report. We've</p> <p>5 released some, some reports that have been</p> <p>6 prepared for the Prison Death Review Board but not</p> <p>7 all of them have been released publicly,</p> <p>8 historically speaking.</p> <p>9 And so we also, I just also would want to,</p> <p>10 for the record, note that we don't have any</p> <p>11 specific staff dedicated to -- solely to this</p> <p>12 particular Board oversight function and we</p> <p>13 recently are working -- well, we recently received</p> <p>14 approval for a position such that we would have</p> <p>15 more staff to be able to conduct this work.</p> <p>16 So part of this, the delay, is associated</p> <p>17 with Board staff capacity related to the work,</p> <p>18 Board member capacity to work towards completing</p> <p>19 the restrictive housing proposed rules</p> <p>20 simultaneously with moving this forward, as well</p> <p>21 as awaiting feedback and comment and the</p> <p>22 availability to meet with the Department and</p> <p>23 Correctional Health staff. So a lot of different</p> <p>24 factors led to the delay in finalizing this</p> <p>25 report.</p>	<p style="text-align: right;">Page 108</p> <p>1 but then subsequently released, for example, on a</p> <p>2 compassionate release Petition, and then died</p> <p>3 while technically out of DOC custody, we would not</p> <p>4 have the same authority to review or investigate.</p> <p>5 I mean we would still be able to -- if we knew</p> <p>6 about the death, we would be able to review</p> <p>7 information to the extent that we had information</p> <p>8 from our regular course of access to DOC systems</p> <p>9 or data. But we would not be able to Subpoena</p> <p>10 medical records, for example, to be able to do</p> <p>11 that level of review on those particular cases.</p> <p>12 Q Are you aware of any situations or have</p> <p>13 you heard of any situations where someone was</p> <p>14 discharged from DOC custody while they were known</p> <p>15 to be or were likely positive with COVID 19 and</p> <p>16 then died out of custody of COVID 19-related</p> <p>17 complications?</p> <p>18 A Yes, we've been told about cases where</p> <p>19 that occurred.</p> <p>20 Q Do you know roughly how many cases that</p> <p>21 occurred in?</p> <p>22 A I do not know.</p> <p>23 Q Okay, it's more than one?</p> <p>24 A I'm not sure. I think there's -- I'm</p> <p>25 aware of at least one that we were made aware of</p>
<p style="text-align: right;">Page 107</p> <p>1 Q Miss Turner, do you recall what the</p> <p>2 Board's recommendations were arising from the</p> <p>3 April 2020 COVID 19 deaths?</p> <p>4 A I don't.</p> <p>5 Q Do you know whether any of those</p> <p>6 recommendations have been implemented?</p> <p>7 A I do not know.</p> <p>8 Q I want to ask you about tracking of deaths</p> <p>9 of persons in custody, and I've used the term</p> <p>10 detainee, inmate or person in custody</p> <p>11 interchangeably today. I mean the same group of</p> <p>12 people.</p> <p>13 Has there been any confusion in my use of</p> <p>14 that terminology today?</p> <p>15 A No.</p> <p>16 Q Okay. So for detainees, how are deaths</p> <p>17 tracked and what detainee deaths count as</p> <p>18 in-custody deaths and what wouldn't count as a</p> <p>19 in-custody death related to COVID?</p> <p>20 A Related to COVID, if the person was</p> <p>21 technically in the Department's custody, meaning</p> <p>22 had not been released, they would -- that is a</p> <p>23 death that would trigger our oversight authority</p> <p>24 to review that death.</p> <p>25 If someone were ill and while in custody</p>	<p style="text-align: right;">Page 109</p> <p>1 but I don't know the exact number if there have</p> <p>2 been others.</p> <p>3 Q Okay, so this statistic that there have</p> <p>4 only been three in-custody COVID deaths in the</p> <p>5 Department, do you believe that there likely have</p> <p>6 been more COVID-related deaths that are related to</p> <p>7 people being in custody at the Department but they</p> <p>8 didn't count as in-custody deaths because of the</p> <p>9 definition of an in-custody death?</p> <p>10 A Yes.</p> <p>11 Q Okay. How many deaths would you estimate</p> <p>12 there have been of people who are or were detained</p> <p>13 at the Department that in some way are</p> <p>14 attributable to COVID 19 or lack of treatment for</p> <p>15 COVID 19 at the Department?</p> <p>16 A I really couldn't speculate with any</p> <p>17 degree of certainty on that. But it's an</p> <p>18 interesting important question for us to be</p> <p>19 asking.</p> <p>20 Q It's also -- there haven't just been three</p> <p>21 people who have died in custody in all of the</p> <p>22 Department in the past year; have there been?</p> <p>23 A No, there have been other deaths that have</p> <p>24 not been determined to be COVID 19 related.</p> <p>25 Q So there could be, for instance, people</p>

<p style="text-align: right;">Page 110</p> <p>1 who have underlying conditions and their deaths 2 might be attributed to that condition when, in 3 fact, they might have also had COVID 19 and COVID 4 19 could have hastened their death, for instance? 5 A Potentially, yes. 6 Q Has there been any attempt made to kind of 7 parse what the potential multiple contributing 8 factors could be and the deaths of inmates who 9 have some cause of death written down for them 10 other than COVID 19? 11 A So we have done a preliminary review. We 12 conduct a preliminary review of each death in 13 custody. And then we proceed to request all 14 medical records associated with those deaths. 15 But we have not completed a review for all 16 deaths occurring since the start of the pandemic 17 to make that assessment although that would 18 definitely be part of our review of the death and 19 the medical records associated with those deaths 20 in custody. 21 And just for the record, I'm not the BOC 22 staff lead on that particular area of our work and 23 because that review involves the review of medical 24 records, I'm not familiar with the details of our 25 death investigations. We keep that limited to</p>	<p style="text-align: right;">Page 112</p> <p>1 the increase in COVID 19 in the jails. 2 And one of the recommendations in that 3 letter was that all -- requiring masks for staff 4 and people in custody at all times, so it 5 specified at all times which I know is something 6 you had asked about, so... 7 Q Yes. And that was a Board recommendation; 8 correct? 9 A This was from just one particular Board 10 member. 11 Q Okay, all right. 12 A But, you know, given his expertise as a 13 medical person, I think he felt compelled to issue 14 that and reiterate that recommendation. 15 Q Okay. 16 A I just failed to mention that in my 17 response. 18 Q No, that's all right. 19 I've heard or read about this concept of 20 excess deaths from a kind of population and 21 statistical standpoint, and what I gather that 22 means that, you correct me if you have a different 23 understanding, is that one way of sensing how many 24 people might be dying from a given event is to 25 look at the baseline expected number of deaths in</p>
<p style="text-align: right;">Page 111</p> <p>1 sort of only the staff necessary to know that 2 information given the privacy concerns there. And 3 so more specifics on the particular circumstances 4 of death I would not be able to accurately answer 5 those questions. 6 MR. KEENAN: Okay. I think now might 7 be a good time for a short break here. Why don't 8 we take about a 10-minute break. I'm going to 9 pause the recording and we'll go off record here. 10 THE WITNESS: Okay. 11 (OFF-THE-RECORD DISCUSSION.) 12 A Could I clarify my answer to a previous 13 question? 14 Q (By Mr. Keenan) Of course. 15 A I think this was before -- it may have 16 been before the lunch break. But you asked about 17 in the past -- in 2021 Board's recommendations on 18 masks. 19 You said and I wanted to flag that our 20 Board member in his personal capacity issued a 21 letter to our Board Chair and Vice Chair the First 22 Deputy Mayor and the Commissioner and the vice 23 president of Health and Hospitals, Patsy Yang or 24 Patricia Yang, and in that letter made some 25 recommendations and expressed his concern about</p>	<p style="text-align: right;">Page 113</p> <p>1 a given population over a certain period before 2 that event had occurred and then after the event 3 occurs looking at the increase in the total number 4 of deaths and it kind of helps control for the 5 fact that the exact cause of death might not 6 always be recorded but the overall numbers can 7 give us a picture. 8 Is that concept familiar to you? 9 A Somewhat but I'm certainly not an expert 10 in this area. 11 Q Has there been any attempt to track, say, 12 the number of deaths in Department custody from, 13 say, March 2020 through March 2021 and compare 14 that number of deaths with the number of deaths in 15 custody from, say, March 2019 to March 2020 and 16 see if there has been a noticeable rise in the 17 number of total deaths from all causes in custody? 18 A We've not explicitly done that analysis. 19 I just know from -- I don't have the numbers in 20 front of me and I don't want to speculate but 21 there have been more deaths in 2020 than in 2019. 22 I don't know the exact numbers off the top of my 23 head but there have been and any death in custody 24 is of a great concern for the Board. 25 We've also been approached by other</p>

<p>Page 114</p> <p>1 research partners to look at the issue of deaths 2 post discharge and are potentially working with 3 some research partners to look at that issue. So 4 that's something that we're exploring as a Board 5 to further get at the question earlier about 6 jail-attributable death or COVID 19 7 jail-attributable deaths post release. 8 MR. KEENAN: And let's look at what 9 is going to be Exhibit 67, which is Board document 10 1269. 11 (WHEREUPON DEPOSITION EXHIBIT NO. 67 WAS 12 MARKED FOR IDENTIFICATION.) 13 Q (By Mr. Keenan) While Julia pulls -- 14 while you pull that up, Miss Turner, could I ask 15 you which research partners have approached the 16 Board about looking into this issue of deaths out 17 of custody that may be attributable to events that 18 occurred in custody? 19 A So researchers in the Sociology Department 20 at the University of California Irvine. 21 Q Okay. 22 A So we've been coordinating with them about 23 a data request and they would be matching to some 24 other death records and conducting a study, 25 assuming they get IRB approval and funding and all</p>	<p>Page 116</p> <p>1 A I'm not -- I'm not certain. 2 Q Are you not -- are you not personally 3 familiar with the situation of [REDACTED]? 4 A No, I'm not. 5 Q Okay. Do you know whether [REDACTED]'s 6 death was recorded as an in-custody death or not? 7 A I'm not certain. 8 Q The three that were recorded as in-custody 9 deaths in the Department were [REDACTED], 10 [REDACTED], and [REDACTED]; 11 correct? 12 A Yes. 13 MR. KEENAN: Let's next go to what 14 will be document 68. This is Board document 179. 15 Q (By Mr. Keenan) Miss Turner, can you what 16 this document is, please? 17 A This is the letter I was referencing 18 earlier from Dr., let's see here, to our -- dated 19 January 29, 2021, to or Board Chair, Jennifer 20 Jones Austin; our Vice Chair, Stanley Richards, 21 the First Deputy mayor, Patsy Yang; and 22 Commissioner Brann. 23 Q And Dr. Safyer, is that how it's 24 pronounced? 25 A Yes.</p>
<p>Page 115</p> <p>1 of that. 2 Q What are the names of those researchers at 3 UC Irvine? 4 A Kristin Tourney and Keramet Reiter. 5 Q Keramet? 6 A Keramet, yeah. 7 Q Do you mind spelling that for us? 8 A Make sure I'm spelling it right, 9 K-E-R-A-M-E-T, last name, R-E-I-T-E-R. 10 Q Okay. And has the Board provided them any 11 documents yet? 12 A Not yet. 13 Q Okay. Do you recognize what we've marked 14 as Exhibit 67 here, Board document 1269 and 15 following? 16 MR. KEENAN: And let's in particular 17 why don't we eventually get to page 3, Julia. 18 A This looks like an E-mail from my 19 colleague, Bennett Stein, reporting findings from 20 a visit he conducted with Dr. Cohen in November of 21 2020. 22 Q (By Mr. Keenan) And there's a discussion 23 of a man named [REDACTED] who had been at the 24 Vernon C. Bain Center, also known as the Boat, and 25 he caught COVID there and later died; correct?</p>	<p>Page 117</p> <p>1 Q Okay, S-A-F-Y-E-R? 2 A Yes, and this is where he recommends that 3 we vaccinate -- that Correctional Health and DOC 4 work to vaccinate all people in custody, increase 5 testing and decarcerate to allow for social 6 distancing and require masks for staff and people 7 in custody at all times. 8 Q Okay. Do you know if the Department 9 responded to this letter or implemented any of 10 this letter's recommendations? 11 A I -- I do not know if we received a 12 response to this. We may have, I just am not 13 remembering. 14 MR. KEENAN: Let's next look at what 15 I think is going to be document 69, Board document 16 5787. 17 (WHEREUPON DEPOSITION EXHIBIT NO. 69 WAS 18 MARKED FOR IDENTIFICATION.) 19 A This is instructions for our staff 20 regarding the process for preparing for and 21 conducting an on-site inspection dated June 3, 22 2020. 23 MR. KEENAN: Next let's pull up Board 24 document 5771. This will be marked as Exhibit 70. 25 Q (By Mr. Keenan) And when it's up can you</p>

<p>Page 118</p> <p>1 please identify this document.</p> <p>2 (WHEREUPON DEPOSITION EXHIBIT NO. 70 WAS</p> <p>3 MARKED FOR IDENTIFICATION.)</p> <p>4 Q (By Mr. Keenan) Here it is, Exhibit 70.</p> <p>5 A This is an updated version of the</p> <p>6 instructions to notify staff for on-site</p> <p>7 inspections dated September 22, 2020.</p> <p>8 MR. KEENAN: Next we'll take a look</p> <p>9 at Board document 207 which will be labeled</p> <p>10 Exhibit 71.</p> <p>11 (WHEREUPON DEPOSITION EXHIBIT NO. 71 WAS</p> <p>12 MARKED FOR IDENTIFICATION.)</p> <p>13 Q (By Mr. Keenan) Miss Turner, can you</p> <p>14 please identify Exhibit 71 for us, please?</p> <p>15 A This is our Board of Correction inspection</p> <p>16 plan which outlines our approach to conducting</p> <p>17 jail visits during COVID 19.</p> <p>18 Q Next we'll look at Board document 2614.</p> <p>19 This will be labeled Exhibit 72.</p> <p>20 (WHEREUPON DEPOSITION EXHIBIT NO. 72 WAS</p> <p>21 MARKED FOR IDENTIFICATION.)</p> <p>22 Q (By Mr. Keenan) Can you please identify</p> <p>23 this document?</p> <p>24 A This is a copy of the New York City Board</p> <p>25 of Correction Housing Area Checklist detailing the</p>	<p>Page 120</p> <p>1 those temperature readings started occurring</p> <p>2 automatically via infrared screening of people as</p> <p>3 they came into the facility so we would not</p> <p>4 necessarily need to -- some of this information</p> <p>5 wouldn't necessarily apply to visits any more</p> <p>6 given those changes.</p> <p>7 Q All right. Thank you.</p> <p>8 MR. KEENAN: Next we'll look at Board</p> <p>9 document 3658. This will be marked as Exhibit 74.</p> <p>10 (WHEREUPON DEPOSITION EXHIBIT NO. 74 WAS</p> <p>11 MARKED FOR IDENTIFICATION.)</p> <p>12 A This is a copy of the Interview</p> <p>13 Questionnaire that we conduct for certain</p> <p>14 individuals who we select to interview in</p> <p>15 particular housing areas during on-site</p> <p>16 inspections.</p> <p>17 This is intended to cover key areas of</p> <p>18 COVID -- related to COVID 19 and access to</p> <p>19 mandated services in custody, and the questions</p> <p>20 that we would encourage our staff to cover when</p> <p>21 they speak to individuals in custody.</p> <p>22 We do not necessarily ask every single</p> <p>23 question. We kind of follow the lead of the</p> <p>24 individuals we're talking to but generally try and</p> <p>25 cover these topic areas. And if the individual</p>
<p>Page 119</p> <p>1 steps to prepare for visiting a particular housing</p> <p>2 area and conducting the checklist.</p> <p>3 MR. KEENAN: Next we'll look at Board</p> <p>4 document 2594. This will be label Exhibit 73.</p> <p>5 (WHEREUPON DEPOSITION EXHIBIT NO. 73 WAS</p> <p>6 MARKED FOR IDENTIFICATION.)</p> <p>7 Q (By Mr. Keenan) Can you identify this,</p> <p>8 please?</p> <p>9 A This is a checklist detailing information</p> <p>10 to gather during an on-site inspection related to</p> <p>11 temperature readings and PPE distribution.</p> <p>12 Q Thank you.</p> <p>13 A I'm not sure -- I'm not sure of the exact</p> <p>14 date. So with each of these checklists we have</p> <p>15 modified them as the policies, Department</p> <p>16 policies, have changed and practices changed.</p> <p>17 So there are multiple versions of these</p> <p>18 checklists that have been revised throughout the</p> <p>19 course of the year as practice has changed.</p> <p>20 For example, with the temperature readings</p> <p>21 those were -- early on in the pandemic those were</p> <p>22 occurring at visit houses where it would involve</p> <p>23 staff manually taking temperatures. And later a</p> <p>24 few months into the pandemic, I would need to</p> <p>25 confirm the exact date of the policy change, but</p>	<p>Page 121</p> <p>1 consents we would record their interview so that</p> <p>2 we would be able to have a record of their</p> <p>3 response.</p> <p>4 Q Thank you.</p> <p>5 MR. KEENAN: Next let's look at Board</p> <p>6 document 2610. This will be labeled Exhibit 75.</p> <p>7 (WHEREUPON DEPOSITION EXHIBIT NO. 75 WAS</p> <p>8 MARKED FOR IDENTIFICATION.)</p> <p>9 A This is a draft staff questionnaire, a</p> <p>10 questionnaire of questions we would ask staff</p> <p>11 working in particular housing areas. I believe</p> <p>12 we've piloted this checklist but have not</p> <p>13 consistently implemented it in all incidents. It</p> <p>14 becomes very time consuming to do these for all</p> <p>15 staff or for even just a handful of people in</p> <p>16 custody, and so we generally give our staff some</p> <p>17 discretion in terms of how they have been</p> <p>18 conducting these interviews.</p> <p>19 Q Thank you.</p> <p>20 MR. KEENAN: We'll next look at Board</p> <p>21 document 5760. This will be labeled Exhibit 76.</p> <p>22 (WHEREUPON DEPOSITION EXHIBIT NO. 76 WAS</p> <p>23 MARKED FOR IDENTIFICATION.)</p> <p>24 Q (By Mr. Keenan) Can you identify this,</p> <p>25 please?</p>

<p>Page 122</p> <p>1 A This is a copy of the template used by our 2 staff for the on-site inspection reports covering 3 the general areas where we come ask staff to 4 summarize what they have seen on site and document 5 each on-site visit.</p> <p>6 Again, each visit is somewhat different 7 and has somewhat different goals so not all areas 8 of this report are necessarily completed or filled 9 out for each visit but it provides a general -- 10 general guidance for our staff in terms of what -- 11 how we'd like them to summarize what they find 12 when they conduct an on-site inspection.</p> <p>13 Q Okay.</p> <p>14 MR. KEENAN: Why don't we pause here. 15 I appreciate your all's flexibility. I apologize. 16 I need to take about a 10 to 15-minute break here 17 but I'll be back as soon as I can.</p> <p>18 (A BRIEF BREAK WAS TAKEN AT THIS TIME.)</p> <p>19 Q (By Mr. Keenan) And, Miss Turner, as I 20 mentioned off the record a moment ago, we're going 21 to just go through a lot of documents here and ask 22 you to identify them. I might stop to ask some 23 questions about selected documents but mostly it's 24 just going to go from document to document.</p> <p>25 So -- I'm sorry, go ahead.</p>	<p>Page 124</p> <p>1 A Correct.</p> <p>2 MR. KEENAN: All right, let's next 3 look at Board document 479. I believe this will 4 be Exhibit 79.</p> <p>5 Q (By Mr. Keenan) Can you identify this 6 document, Miss Turner?</p> <p>7 (WHEREUPON DEPOSITION EXHIBIT NO. 79 WAS 8 MARKED FOR IDENTIFICATION.)</p> <p>9 A This looks like an on-site inspection pre 10 tour preparation report prepared in advance of the 11 January 14, 2021, tour of GRVC.</p> <p>12 MR. KEENAN: And let's look at page 13 3, please, Exhibit 80. This is listed as -- why 14 don't we go off the record.</p> <p>15 (OFF-THE-RECORD DISCUSSION.)</p> <p>16 (WHEREUPON DEPOSITION EXHIBIT NO. 80 WAS 17 MARKED FOR IDENTIFICATION.)</p> <p>18 Q (By Mr. Keenan) Miss Turner, can you 19 identify Exhibit 80, please?</p> <p>20 A This is the on-site inspection report for 21 the tour completed on January 14, 2021.</p> <p>22 Q Let's go to page 3, please. There's a 23 discussion in General Population about there being 24 no cleaning supplies by the phones; correct?</p> <p>25 A Yes, that's correct.</p>
<p>Page 123</p> <p>1 A Okay.</p> <p>2 Q All right.</p> <p>3 MR. KEENAN: So Julia if we could 4 please pull up Board document 424. This will be 5 marked as Exhibit 77.</p> <p>6 (WHEREUPON DEPOSITION EXHIBIT NO. 77 WAS 7 MARKED FOR IDENTIFICATION.)</p> <p>8 Q (By Mr. Keenan) Miss Turner, do you 9 recognize this document, Exhibit 77?</p> <p>10 A This is a copy of the Housing Area 11 Checklist. I believe it appears to be completed 12 for a tour of GRVC on January 14, 2021, in Housing 13 Unit 5A.</p> <p>14 MR. KEENAN: Next we'll look at Board 15 document 475. This will be marked Exhibit 78.</p> <p>16 (WHEREUPON DEPOSITION EXHIBIT NO. 78 WAS 17 MARKED FOR IDENTIFICATION.)</p> <p>18 Q (By Mr. Keenan) Can you identify this 19 document, please, Miss Turner.</p> <p>20 A This looks like a copy of the Temperature 21 and PPE Distribution Checklist for a tour of GRVC 22 on January 14, 2021.</p> <p>23 Q And all of these documents include notes 24 about what was observed during the course of that 25 inspection or encounter; correct?</p>	<p>Page 125</p> <p>1 Q And let's look at page 6. There's a 2 discussion in this discussion report that no 3 officer or staff person checked our temperatures; 4 right?</p> <p>5 A I'm sorry, I don't hear the last part of 6 what you said.</p> <p>7 Q There's a discussion in the Summary of 8 Findings that no officer or staff person check our 9 temperatures; correct?</p> <p>10 A Correct.</p> <p>11 Q Temperature tickets are no longer 12 provided?</p> <p>13 A I think that's referring to the tickets 14 that were provided when temperature checks were 15 conducted in visit areas.</p> <p>16 So I don't know that that's about the 17 particular visit that day. I mean this looks like 18 they were not -- it looks like the computer -- 19 she's discussing the computerized system that 20 measures temperatures in lieu of the manual 21 temperature checks.</p> <p>22 Q Okay. Let's go to page --</p> <p>23 A So I think she's clarifying that from her 24 checklist some of the information on the checklist 25 is no longer relevant because it's being conducted</p>

<p>Page 126</p> <p>1 by the computer screening process.</p> <p>2 Q It's also noted it was observed not all</p> <p>3 staff members in every unit were wearing masks;</p> <p>4 correct?</p> <p>5 A Correct.</p> <p>6 MR. KEENAN: Let's go to what will be</p> <p>7 marked as Exhibit 80. This is Board document</p> <p>8 126 -- 81.</p> <p>9 (WHEREUPON DEPOSITION EXHIBIT NO. 81 WAS</p> <p>10 MARKED FOR IDENTIFICATION.)</p> <p>11 Q (By Mr. Keenan) Board document 126, can</p> <p>12 you identify this document for us, please?</p> <p>13 A This is a Summary of Feedback or findings</p> <p>14 from two Board tours of one of the AMKC facility</p> <p>15 and one of the GRVC facility. It includes a</p> <p>16 summary. This is an E-mail directed from our</p> <p>17 executive director to City Hall and other and the</p> <p>18 Department of Corrections and Correctional Health</p> <p>19 staff.</p> <p>20 Q And the E-mail is dated January 28, 2021;</p> <p>21 correct?</p> <p>22 A Correct.</p> <p>23 Q One of the things in bold towards the</p> <p>24 bottom in an observation is inconsistent masks</p> <p>25 usage among people in custody and staff, and Board</p>	<p>Page 128</p> <p>1 computer is just frozen for a moment. One second.</p> <p>2 MR. KEENAN: All right.</p> <p>3 David, I think you're making the right call</p> <p>4 by grabbing some coffee.</p> <p>5 (OFF-THE-RECORD DISCUSSION.)</p> <p>6 Q (By Mr. Keenan) All right, Exhibit 83,</p> <p>7 this is Board document 510, can you identify this</p> <p>8 please, Miss Turner?</p> <p>9 A This is a Housing Area Checklist dated</p> <p>10 January 23, 2021, for Housing Unit 3U, 3 upper,</p> <p>11 and at the AMKC facility.</p> <p>12 Q Thank you.</p> <p>13 MR. KEENAN: We'll next go to Exhibit</p> <p>14 Board -- document Board 505 and it will be marked</p> <p>15 as Exhibit 84.</p> <p>16 (WHEREUPON DEPOSITION EXHIBIT NO. 84 WAS</p> <p>17 MARKED FOR IDENTIFICATION.)</p> <p>18 Q (By Mr. Keenan) Can you please identify</p> <p>19 Exhibit 84?</p> <p>20 A This is the Temperature and PPE</p> <p>21 Distribution Checklist document dated January 23,</p> <p>22 2021, for the AMKC facility completed by Board</p> <p>23 staff.</p> <p>24 Q Thank you.</p> <p>25 MR. KEENAN: We'll next go to Board</p>
<p>Page 127</p> <p>1 staff observed DOC, for Department of Correction,</p> <p>2 staff wearing masks incorrectly or some DOC staff</p> <p>3 not wearing masks at all.</p> <p>4 Did I read that correctly?</p> <p>5 A Correct.</p> <p>6 MR. KEENAN: Next let's go to what's</p> <p>7 going to be Exhibit 82, Board document 575.</p> <p>8 (WHEREUPON DEPOSITION EXHIBIT NO. 82 WAS</p> <p>9 MARKED FOR IDENTIFICATION.)</p> <p>10 Q (By Mr. Keenan) Can you identify this</p> <p>11 document, please?</p> <p>12 A This is a Housing Area Checklist dated</p> <p>13 January 23, 2021, from QL 5, that's Quad Lower 5</p> <p>14 at the AMKC facility.</p> <p>15 Q Thank you.</p> <p>16 MR. KEENAN: Next let's look at Board</p> <p>17 document 510 that will be marked as Exhibit 83.</p> <p>18 (WHEREUPON DEPOSITION EXHIBIT NO. 83 WAS</p> <p>19 MARKED FOR IDENTIFICATION.)</p> <p>20 Q (By Mr. Keenan) Can you please identify</p> <p>21 Exhibit 83?</p> <p>22 A This is the same document.</p> <p>23 Q Okay. All right. So I guess 83 --</p> <p>24 A No, sorry.</p> <p>25 MS. GOKHBERG: No, sorry, no, no, my</p>	<p>Page 129</p> <p>1 document 486. It will be marked as Exhibit 85.</p> <p>2 (WHEREUPON DEPOSITION EXHIBIT NO. 85 WAS</p> <p>3 MARKED FOR IDENTIFICATION.)</p> <p>4 Q (By Mr. Keenan) Can you please identify</p> <p>5 Exhibit 85?</p> <p>6 A This is pre tour report, what we call the</p> <p>7 DOC pre tour report, for the on-site inspection</p> <p>8 conducted on Saturday, January 23, 2021, for the</p> <p>9 AMKC facility completed by Board staff Katrina</p> <p>10 Blackman and Bennett Stein.</p> <p>11 MR. KEENAN: Next we'll go to Board</p> <p>12 document 491. It will be marked as Exhibit 86.</p> <p>13 (WHEREUPON DEPOSITION EXHIBIT NO. 86 WAS</p> <p>14 MARKED FOR IDENTIFICATION.)</p> <p>15 Q (By Mr. Keenan) Can you please identify</p> <p>16 Exhibit 86?</p> <p>17 A This is the on-site inspection report for</p> <p>18 the visit or tour inspection conducted on</p> <p>19 Saturday, January 23, 2021, at the AMKC facility.</p> <p>20 Q Thank you very much.</p> <p>21 MR. KEENAN: We'll next look at Board</p> <p>22 document 1734. It will be marked as Exhibit 87.</p> <p>23 (WHEREUPON DEPOSITION EXHIBIT NO. 87 WAS</p> <p>24 MARKED FOR IDENTIFICATION.)</p> <p>25 Q (By Mr. Keenan) I don't know if there's a</p>

<p>1 way of flipping that around. Okay.</p> <p>2 A This is the Housing Area Checklist</p> <p>3 completed on March 10, 2021, at the VCBC facility.</p> <p>4 I believe the housing unit is 2CB.</p> <p>5 Q Thank you very much.</p> <p>6 MR. KEENAN: Next we'll look at Board</p> <p>7 document 1859. This will be marked as Exhibit 88.</p> <p>8 (WHEREUPON DEPOSITION EXHIBIT NO. 88 WAS</p> <p>9 MARKED FOR IDENTIFICATION.)</p> <p>10 Q (By Mr. Keenan) Can you please identify</p> <p>11 this document?</p> <p>12 A This is a Housing Area Checklist completed</p> <p>13 on March 10, 2021, at the VCBC facility for Unit</p> <p>14 3CB, a general population unit.</p> <p>15 Q Next we will look at Board document 1927.</p> <p>16 It will be marked as Exhibit 89.</p> <p>17 (WHEREUPON DEPOSITION EXHIBIT NO. 89 WAS</p> <p>18 MARKED FOR IDENTIFICATION.)</p> <p>19 Q (By Mr. Keenan) Can you identify this</p> <p>20 document, please?</p> <p>21 A This is a Temperature and PPE Distribution</p> <p>22 Checklist completed on March 10, 2021, at the VCBC</p> <p>23 facility.</p> <p>24 MR. KEENAN: Next we will look at</p> <p>25 document Board 1898. It will be marked as</p>	<p>Page 130</p> <p>1 MARKED FOR IDENTIFICATION.)</p> <p>2 A This is a memo to me from Katrina</p> <p>3 Blackman, Board staff member, regarding her</p> <p>4 inspection conducted March 11 -- the inspection</p> <p>5 was conducted March 10th, the memo is drafted</p> <p>6 March 11th.</p> <p>7 Q (By Mr. Keenan) I'm sorry, let's look at</p> <p>8 page 4, please. There is a set of recommendations</p> <p>9 on page 4; correct, and 5?</p> <p>10 A Um-hum.</p> <p>11 Q One thing that's mentioned is the DOC</p> <p>12 observed some staff not wearing their masks</p> <p>13 correctly and it's something that needs to be done</p> <p>14 is to ensure staff and officers are always wearing</p> <p>15 their masks; correct?</p> <p>16 A Yes.</p> <p>17 Q There's also a mention that it's important</p> <p>18 to have an adequate and readily available supply</p> <p>19 of inmate PPE, both housing areas have low</p> <p>20 supplies of preventing COVID; correct?</p> <p>21 A Yes, I think, though, I had some -- this</p> <p>22 was prepared by a staff some and I had some</p> <p>23 follow-up questions and back and forth with her</p> <p>24 regarding this.</p> <p>25 It's not that masks were not available,</p>
<p>Page 131</p> <p>1 Exhibit 90.</p> <p>2 (WHEREUPON DEPOSITION EXHIBIT NO. 90 WAS</p> <p>3 MARKED FOR IDENTIFICATION.)</p> <p>4 A This is the pre tour report for the visit</p> <p>5 conducted March 10, 2021, at the VCBC facility.</p> <p>6 Q (By Mr. Keenan) And I think we're all in</p> <p>7 the rhythm here so I probably don't even need to</p> <p>8 ask the question each time after, Identity it.</p> <p>9 We all know that what I'm asking you to do</p> <p>10 is identify the documents when I read them; right?</p> <p>11 A Yes.</p> <p>12 Q Okay. All right. So I just wanted to get</p> <p>13 that on the record.</p> <p>14 I think next we're going to be on what</p> <p>15 will be Board document 1902. It will be marked as</p> <p>16 Exhibit 91.</p> <p>17 (WHEREUPON DEPOSITION EXHIBIT NO. 91 WAS</p> <p>18 MARKED FOR IDENTIFICATION.)</p> <p>19 A This is the on-site inspection report for</p> <p>20 an inspection conducted on March 10, 2021, at the</p> <p>21 VCBC facility.</p> <p>22 Q (By Mr. Keenan) Thank you.</p> <p>23 THE COURT: We'll next look at Board</p> <p>24 document 1888. It will be marked as Exhibit 92.</p> <p>25 (WHEREUPON DEPOSITION EXHIBIT NO. 92 WAS</p>	<p>Page 133</p> <p>1 it's that they happened to be low and at that</p> <p>2 particular moment when we were touring.</p> <p>3 So I don't know that it's an indication of</p> <p>4 the facility having a low supply, just at that</p> <p>5 time of her tour of that area there was a low</p> <p>6 supply.</p> <p>7 Q How about cleaning supplies, what were the</p> <p>8 impressions regarding availability of cleaning</p> <p>9 supplies?</p> <p>10 A So this is an area where there's been an</p> <p>11 issue of access to cleaning supplies but I think</p> <p>12 it's a little bit confusing because often people</p> <p>13 in custody want to have the direct access at all</p> <p>14 times to the cleaning supplies, instead of</p> <p>15 requesting the cleaning supplies.</p> <p>16 And so I clarified with our staff member,</p> <p>17 Miss Blackman, that the cleaning -- whether --</p> <p>18 it's important for her to document whether or not</p> <p>19 the cleaning supplies just were not available in</p> <p>20 the post to be provided to staff -- or to people</p> <p>21 in custody or whether or not the cleaning -- the</p> <p>22 people in custody were complaining that they just</p> <p>23 didn't have them right there.</p> <p>24 It wasn't clear to me from her summary</p> <p>25 what the issue was and so I've encouraged her to</p>

<p>Page 134</p> <p>1 be clearer when she's documenting her findings in 2 this regard. 3 MR. KEENAN: Let's look at Board 4 document 1877. This will be marked as Exhibit 93. 5 (WHEREUPON DEPOSITION EXHIBIT NO. 93 WAS 6 MARKED FOR IDENTIFICATION.) 7 Q (By Mr. Keenan) Can you identify this, 8 please. 9 A This is an E-mail to Katrina Blackman from 10 Assistant Deputy Warden Harvey at the VCBC 11 facility dated March 18th regarding some follow-up 12 to issues identified while she was touring the 13 VCBC facility, specific issues identified on that 14 tour. 15 Q Thank you. 16 MR. KEENAN: Next we'll look at Board 17 document 1988. It will be marked as Exhibit 94. 18 (WHEREUPON DEPOSITION EXHIBIT NO. 94 WAS 19 MARKED FOR IDENTIFICATION.) 20 A This is pre tour on-site inspection 21 preparation report dated March 24, 2021, for an 22 inspection conducted at the GRVC facility. 23 Q Next we'll look at Board document 2211. 24 It will be marked as Exhibit 95. 25 (WHEREUPON DEPOSITION EXHIBIT NO. 95 WAS</p>	<p>Page 136</p> <p>1 Q Okay, confirmed unit means a unit housing 2 people who are confirmed to be positive with COVID 3 19? 4 A Correct. 5 Q Thank you. 6 MR. KEENAN: Next we'll look at Board 7 document 2196. It will be marked as Exhibit 98. 8 (WHEREUPON DEPOSITION EXHIBIT NO. 98 WAS 9 MARKED FOR IDENTIFICATION.) 10 A This is a Temperature and PPE Distribution 11 Checklist completed on March 29, 2021, at the EMTC 12 facility. 13 Q (By Mr. Keenan) Thank you. 14 MR. KEENAN: Next we'll look at Board 15 document 2069. It will be marked as Exhibit 99. 16 (WHEREUPON DEPOSITION EXHIBIT NO. 99 WAS 17 MARKED FOR IDENTIFICATION.) 18 A This appears to be notes taken by Board 19 staff member from interviews conducted in EMTC in 20 the 1 Upper unit. It appears that two individuals 21 were interviewed at the same time and responses 22 are recorded for both individuals throughout the 23 document. 24 Q (By Mr. Keenan) And it would have been 25 agents of the Board of Correction taking these</p>
<p>Page 135</p> <p>1 MARKED FOR IDENTIFICATION.) 2 A This is pre tour on-site inspection 3 preparation report prepared for inspection on 4 March 29, 2021, of the EMTC facility. 5 MR. KEENAN: Next we'll look at Board 6 document 2075. It will be marked as Exhibit 96. 7 (WHEREUPON DEPOSITION EXHIBIT NO. 96 WAS 8 MARKED FOR IDENTIFICATION.) 9 A This is a Housing Area Checklist completed 10 on March 29, 2021, for at the EMTC facility in the 11 Unit 1 Upper unit, which is or at the time was a 12 new admissions unit for asymptomatic but exposed 13 individuals. 14 Q (By Mr. Keenan) Thank you. 15 MR. KEENAN: Next we'll look at Board 16 document 2169. It will be marked as Exhibit 97. 17 (WHEREUPON DEPOSITION EXHIBIT NO. 97 WAS 18 MARKED FOR IDENTIFICATION.) 19 A This is the Housing Unit Checklist dated 20 March 29, 2021, at the EMTC facility for 8 Lower, 21 a confirmed -- general population unit for 22 confirmed COVID individuals. 23 Q (By Mr. Keenan) Is the shorthand for that 24 a confirmed unit? You see that in some paperwork? 25 A Yeah.</p>	<p>Page 137</p> <p>1 notes; correct? 2 A Correct. 3 Q All right. 4 A I believe it was Miss Blackman. 5 Q Katrina Blackman? 6 A Katrina Blackman took these notes. 7 Q Thank you. 8 MR. KEENAN: Next we'll look at Board 9 document 2200. It will be marked as Exhibit 100. 10 (WHEREUPON DEPOSITION EXHIBIT NO. 100 WAS 11 MARKED FOR IDENTIFICATION.) 12 A This is an On-site Inspection Report for 13 the tour conducted on March 29, 2021, at the EMTC 14 facility completed by Katrina Blackman. 15 MR. KEENAN: Next we'll look at Board 16 document 2224. It will be marked as Exhibit 101. 17 (WHEREUPON DEPOSITION EXHIBIT NO. 101 WAS 18 MARKED FOR IDENTIFICATION.) 19 A This is a memo to me from Katrina Blackman 20 dated Tuesday, March 30th summarizing the tour 21 conducted on March 29, 2021 at the EMTC facility. 22 MR. KEENAN: Next we'll look at Board 23 document 1574. It will be marked as Exhibit 102. 24 (WHEREUPON DEPOSITION EXHIBIT NO. 102 WAS 25 MARKED FOR IDENTIFICATION.)</p>

<p>Page 138</p> <p>1 A This is a pre tour or pre inspection 2 report for a tour conducted on December 7, 2020, 3 at the EMTC facility. 4 Q (By Mr. Keenan) Thank you. 5 MR. KEENAN: Next let's look at Board 6 document 1356. It will be marked as Exhibit 103. 7 (WHEREUPON DEPOSITION EXHIBIT NO. 103 WAS 8 MARKED FOR IDENTIFICATION.) 9 A This is the Housing Area Checklist dated 10 December 7, 2020, for the on-site inspection 11 conducted in Housing Unit 1 Main, 1M, at the EMTC 12 facility. 13 Q (By Mr. Keenan) Before we go to what will 14 be Exhibit 104 I want to ask you, I've noticed it 15 doesn't look like we have any inspection reports 16 from anything more recent than about two months 17 ago. 18 Do you know why that is or would that be 19 more a question for counsel? 20 A I think we produced documents through the 21 end of March. 22 Q Okay. 23 A I don't know. Maybe we have more, I'm not 24 sure. I think that was just at a certain point -- 25 Q Okay.</p>	<p>Page 140</p> <p>1 just, I guess, used that, you know, we shared 2 whatever we had as of a certain date. 3 Q Thanks, we'll just work with the City's 4 counsel and supplementation of anything more 5 recent than that. 6 MR. KEENAN: Let's go ahead and look 7 at Board document 1472. It will be marked as 8 Exhibit 104. 9 (WHEREUPON DEPOSITION EXHIBIT NO. 104 WAS 10 MARKED FOR IDENTIFICATION.) 11 A This is a Housing Area Checklist dated 12 December 7, 2020, for the EMTC facility. It looks 13 like 10 Main was the housing unit this was 14 completed for, a new admission GP unit. 15 Q GP is general population? 16 A Yes, correct. 17 Q Thank you. 18 MR. KEENAN: We'll next look at Board 19 document 1504. It will be marked as Exhibit 105. 20 (WHEREUPON DEPOSITION EXHIBIT NO. 105 WAS 21 MARKED FOR IDENTIFICATION.) 22 A Can you hold on one second? I'm going to 23 just log back into my work computer. I got kicked 24 out. 25 This is a Temperature Reading and PPE</p>
<p>Page 139</p> <p>1 A -- we needed to go back and collect. 2 Q Just a stop and go in discovery and the 3 lag time? 4 A Yeah, I don't know, if there's more we 5 need to produce we can do that. 6 Q I just want to, you know, I guess the 7 overall question is there are housing area 8 checklists and reports from April and now May of 9 2021; correct? 10 A Yes. There are -- there have been visits 11 in April and May although they did not involve 12 housing area checklists because the goals of those 13 visits were, as I mentioned I think in response to 14 previous questions, we recently visited the RNDC 15 facility to look at certain issues related to 16 intake and the reopening of school and 17 availability of programming at that facility, and 18 that was the main goal, so no specific housing 19 areas were -- checklists were conducted for that 20 tour on April 20th. 21 And then on May 4th and May 5th we went to 22 the EMTC facility and that was focused -- that 23 inspection was focused on intake so we wouldn't 24 have produced a housing area checklist for that. 25 But I think the reason why -- I think we</p>	<p>Page 141</p> <p>1 Distribution Checklist dated December 7, 2020, for 2 the EMTC facility. 3 Q (By Mr. Keenan) Thank you. 4 MR. KEENAN: Next let's look at Board 5 document 1366. It will be Exhibit 106. 6 (WHEREUPON DEPOSITION EXHIBIT NO. 106 WAS 7 MARKED FOR IDENTIFICATION.) 8 A This is a copy of a list of interview 9 questions for people in custody. It appears to be 10 notes from interviews conducted at the 1M, 1 Main, 11 housing unit. 12 Q (By Mr. Keenan) Okay. 13 MR. KEENAN: Next, Julia, are we onto 14 Exhibit 107; correct? 15 MS. GOKHBERG: Yes. 16 MR. KEENAN: This will be Board 17 document 1482, Exhibit 107. 18 (WHEREUPON DEPOSITION EXHIBIT NO. 107 WAS 19 MARKED FOR IDENTIFICATION.) 20 A This is another interview, notes from an 21 interview conducted. It appears to say 10 Main. 22 Q (By Mr. Keenan) And tell us, again, what 23 10 Main means? 24 A Housing for that particular housing unit. 25 Q Okay. From EMTC?</p>

<p>Page 142</p> <p>1 A If this was in the same folder we produced 2 I would assume it would be from EMTC. 3 MR. KEENAN: Okay, next will be Board 4 document 1490. It will be Exhibit 108. 5 (WHEREUPON DEPOSITION EXHIBIT NO. 108 WAS 6 MARKED FOR IDENTIFICATION.) 7 A This is an On-site Inspection Report for 8 an inspection conducted December 10th at the EMTC 9 facility. 10 Q (By Mr. Keenan) Thank you. 11 MR. KEENAN: Next we'll look at Board 12 document 1508, Exhibit 109. 13 (WHEREUPON DEPOSITION EXHIBIT NO. 109 WAS 14 MARKED FOR IDENTIFICATION.) 15 A This is an E-mail thread with -- that 16 includes -- that I shared with our team that 17 includes a response to the concerns and findings 18 raised as a result of our on-site inspection on 19 December 7, 2020. 20 It includes response from the Department 21 to -- and Correctional Health Services to the 22 questions posed to the agencies following that 23 visit. 24 So for context to some of these documents, 25 inspection staff will complete their report</p>	<p>Page 144</p> <p>1 to skip down and bit in our list of documents 2 here. I want to pull up Board document 63, BOC 3 00063. 4 Everybody doing okay? This will be marked 5 as what exhibit, Julia? 6 MS. GOKHBERG: Exhibit 110. 7 (WHEREUPON DEPOSITION EXHIBIT NO. 110 WAS 8 MARKED FOR IDENTIFICATION.) 9 Q (By Mr. Keenan) So this is Board document 10 63. It's a native format Excel spreadsheet with 11 some photographs on it as well; correct? 12 MR. KEENAN: Julia, why don't you 13 scroll down a bit to show those. 14 Q (By Mr. Keenan) Miss Turner, tell us what 15 we see here, please? 16 A This is -- can you scroll up? I'm trying 17 to understand. So this -- I need to look into it 18 further but I believe -- I'm not entirely sure 19 what exactly this is. 20 I think this is maybe from in January 21 of -- in January of this year we were seeking to 22 see if there was a way we could modify our 23 Genetec -- the approach that we had previously 24 taken to our Genetec observations in the spring 25 and develop a protocol to report on findings</p>
<p>Page 143</p> <p>1 following a visit but immediately following a 2 visit I typically debrief with staff to identify 3 immediate concerns and issues that would need to 4 be immediately addressed at the facility or with 5 Department or Correctional Health leadership. 6 And then I also ask staff to prepare some 7 key findings of the systemic issues we need to 8 escalate that, you know, can't be addressed solely 9 at the facility or that represent concerns, 10 broader concerns. 11 And so that gets translated into E-mails 12 to the Department, sort of escalated internally at 13 BOC to our executive director and these E-mails 14 get directed to DOC and Correctional Health 15 leadership. 16 We don't share the -- we don't share the 17 post tour -- the detailed post tour post 18 inspection reports with the Department. We sort 19 of after some back and forth with our staff to 20 understand the content of those reports and what's 21 most important, the most important findings from 22 these visits, that then gets escalated and 23 translated into questions or the sharing of 24 findings with the agencies. 25 MR. KEENAN: Next, Julia, we're going</p>	<p>Page 145</p> <p>1 regarding mask usage, and I believe this is a 2 spreadsheet from a pilot that we conducted to try 3 and modify and develop a methodology where we 4 could start to -- or restart to report more 5 systematically mask usage findings. 6 Potentially, the goal was potentially to 7 include in some Board updates and potentially in 8 our weekly COVID reports. However, we found just 9 the protocol did not lend itself to efficient 10 reporting on this issue for the weekly reports in 11 a timely manner from our grievance team. 12 So this was an attempt to pilot different 13 approaches for monitoring this issue and 14 internally try and decide whether or not we had 15 the staff capacity to do more consistent reporting 16 on this issue. 17 And we conducted two pilots and did not 18 have the staff capacity to consistently implement 19 this monitoring strategy. And so have not done -- 20 have not done more with these findings since 21 January. 22 Q So since January there have not been any 23 report like this reviewing screen shots and video 24 footage trying to assess out of the people you see 25 how many are properly wearing masks?</p>

<p style="text-align: right;">Page 146</p> <p>1 A That's correct.</p> <p>2 Q This is from Ann Casey; correct?</p> <p>3 A Yes.</p> <p>4 Q The statistics we see in the Excel field</p> <p>5 over on the right of Exhibit 110 are that 3 out of</p> <p>6 11 staff members were wearing masks correctly?</p> <p>7 A That's what it appears to show but I would</p> <p>8 need to understand better the exact methodology</p> <p>9 used for this particular data to understand what</p> <p>10 it means.</p> <p>11 Q Sure, but taking that for what -- and this</p> <p>12 is prepared by a Board staff member; correct?</p> <p>13 A Yes.</p> <p>14 Q Board staff members are trained, they are</p> <p>15 told, you know, what the expectations are and they</p> <p>16 are told by about the guidelines; correct?</p> <p>17 A Correct.</p> <p>18 Q Board staff members are professional in</p> <p>19 doing their jobs and generally do their jobs well;</p> <p>20 correct?</p> <p>21 A Correct.</p> <p>22 Q If Board staff member, in this instance,</p> <p>23 Jemarley McFarland; correct?</p> <p>24 A Correct.</p> <p>25 Q Completed this and taking it for what it</p>	<p style="text-align: right;">Page 148</p> <p>1 A That's what the spreadsheet indicates,</p> <p>2 yeah.</p> <p>3 Q Pretty similar to what was observed a</p> <p>4 month later in January 2021; correct?</p> <p>5 A Correct.</p> <p>6 Q In fact, the numbers in January 2021 were</p> <p>7 marginally worse than they were in December 2020;</p> <p>8 correct?</p> <p>9 A I don't think they are comparing the same</p> <p>10 units but -- same housing areas, but, yes, the</p> <p>11 spot checks that we were getting indicate that.</p> <p>12 Q 3 out of 11 is a lower percentage than 4</p> <p>13 out of 10; correct?</p> <p>14 A Yes.</p> <p>15 Q By the way, back on Exhibit 110, can we</p> <p>16 pull that back up again, Julia, please.</p> <p>17 There's a note in the bottom right-hand</p> <p>18 corner about an observation, says, a Board staff</p> <p>19 member, Mr. McFarland, does Jemarley identify as a</p> <p>20 man, is it Mr. McFarland?</p> <p>21 A Yes.</p> <p>22 Q Okay, Mr. McFarland says, Particularly</p> <p>23 disturbing to observe an officer not practicing or</p> <p>24 enforcing social distancing, which is virtually</p> <p>25 impossible, but instead is laughing and touching</p>
<p style="text-align: right;">Page 147</p> <p>1 says, 3 out of 11 staff members observed in</p> <p>2 January of this year were wearing their masks</p> <p>3 correctly, would you agree with me that that's a</p> <p>4 very disappointing statistic?</p> <p>5 A Yes, I would.</p> <p>6 Q And would you be concerned about the</p> <p>7 safety and health of inmates and staff if those</p> <p>8 statistics were representative of the level of</p> <p>9 mask compliance among the staff?</p> <p>10 A Yes.</p> <p>11 Q And why don't we next look at the, I think</p> <p>12 the only other sort of attempt by the Board to</p> <p>13 look at snapshots of video footage, at least</p> <p>14 recently, this will be Board document 50, it will</p> <p>15 be marked as Exhibit 111.</p> <p>16 (WHEREUPON DEPOSITION EXHIBIT NO. 111 WAS</p> <p>17 MARKED FOR IDENTIFICATION.)</p> <p>18 Q (By Mr. Keenan) Here also a spreadsheet,</p> <p>19 Exhibit 111 is native format spreadsheet looking</p> <p>20 at AMKC snapshots completed by Jemarley McFarland;</p> <p>21 correct?</p> <p>22 A Correct.</p> <p>23 Q And the observation there is out of 10</p> <p>24 staff observed, only 4 were wearing their masks</p> <p>25 correctly; right?</p>	<p style="text-align: right;">Page 149</p> <p>1 detainees without any PPE.</p> <p>2 What's your reaction to that?</p> <p>3 A That definitely does not seem to be</p> <p>4 acceptable. Certainly touching someone is not</p> <p>5 maintaining six feet social distancing.</p> <p>6 Q Laughing seems like not taking it too</p> <p>7 seriously; right? Right?</p> <p>8 A Correct.</p> <p>9 Q Okay, let's now go to -- just looking over</p> <p>10 some notes here.</p> <p>11 Do you all mind if we take a short break?</p> <p>12 We might want to caucus here and see kind of what</p> <p>13 we have left. Where are we looking at on the</p> <p>14 clock here? I mean I know what time it is but in</p> <p>15 terms of people's limitations and parameters?</p> <p>16 MR. ORSLAND: I think David has to</p> <p>17 leave at 5:30; is that right?</p> <p>18 MR. THAYER: Yeah.</p> <p>19 MR. ORSLAND: I can hang around a</p> <p>20 little bit longer but I do have a meeting at 6 I</p> <p>21 need to get ready for.</p> <p>22 MR. KEENAN: Sure, okay, why don't we</p> <p>23 take 10 and then we'll caucus around here and see</p> <p>24 what we can do to quicken things up; okay?</p> <p>25 MR. ORSLAND: Okay.</p>

<p>Page 150</p> <p>1 MR. KEENAN: Are you feeling all 2 right, Miss Turner? 3 THE WITNESS: Yeah, getting a little 4 tired but try and push through this and get 5 through the rest. 6 MR. KEENAN: If you need to stop at 7 any point will you just let us know that? 8 THE WITNESS: Sure. 9 MR. KEENAN: We don't want to push 10 you here. 11 THE WITNESS: Okay. 12 MR. KEENAN: I'm going to pause the 13 recording. 14 (A BRIEF BREAK WAS TAKEN AT THIS TIME.) 15 MR. KEENAN: Why don't we jump back 16 on the record. I'll resume the recording. 17 Q (By Mr. Keenan) Miss Turner, we are back 18 on the record after a break. We just had an 19 off-the-record discussion among counsel in your 20 presence about how we're going to deal with the 21 fairly large number of documents that were 22 produced by the Board that we, if we had more 23 time, we would mark as exhibits and talk through 24 them orally, but in the interest of saving time 25 the procedure we've agreed on is that we're going</p>	<p>Page 152</p> <p>1 governing conditions of confinement that are 2 within the scope of our city charter authority, 3 which is fairly broad in terms of the conditions 4 of confinement and health and mental health of 5 people in custody. 6 Q But you don't have the authority to then 7 enforce those rules; correct, the Department has 8 to enforce them? 9 A Correct. 10 Q Okay. So the Board has made a number of 11 recommendations since the beginning of the 12 pandemic about how to mitigate the threat of COVID 13 19 in Department facilities; correct? 14 A Correct. 15 Q One of the consistent recommendations the 16 Board has made is that staff should wear masks at 17 all times when indoors; correct? 18 A Correct. 19 Q The Department has not implemented that 20 recommendation as a matter of mandatory policy; 21 has it? 22 A Not beyond the policy that we reviewed, 23 the April -- the revised -- well, the April 3, 24 2020, policy and the revised February 2021 policy. 25 Q February I think maybe early March 2021;</p>
<p>Page 151</p> <p>1 to prepare a list of those, mark them as exhibits 2 to this corporate representative deposition but 3 off transcript but still as part of the record of 4 this deposition, have a stipulation as to 5 foundation and authenticity of those records and 6 that they are properly kept business records from 7 the Board of Correction. 8 And so is that procedure agreeable to 9 counsel for the City and to you, Miss Turner? 10 A That's fair. 11 MR. THAYER: All right with City 12 counsel, thank you. 13 MR. KEENAN: Okay, great. 14 Q (By Mr. Keenan) That will, I think, very 15 much quicken things up here. 16 So, Miss Turner, the Board of Correction 17 has the authority to recommend that the Department 18 of Correction implement certain measures but it 19 doesn't have the authority to command those 20 measures; correct? 21 A Correct. 22 Q Now, help me understand the Board's 23 rule-making authority and what its role is in the 24 rule-making process? 25 A We can propose rules and regulations</p>	<p>Page 153</p> <p>1 right? 2 A Yes. 3 Q Okay. Since the beginning of the pandemic 4 the Board of Correction has consistently 5 recommended social distancing and reducing the 6 population of Department facilities; correct? 7 A Correct. 8 Q And the Department has not implemented 9 that recommendation over the long term; has it? 10 A The Department has initially moved with 11 other city actors to decarcerate the -- initially 12 at the beginning of the pandemic and since then 13 the population has increased but it's not entirely 14 within the Department's control to -- as to the 15 size of the population within its custody. 16 Q The Department does have significant 17 control though; right? 18 A They have control over how they house and 19 use the space that they have available to them but 20 they do not have control over the overall 21 population and do not have authority to 22 decarcerate or release individuals, all 23 individuals within its custody. 24 Q How come they were able to reduce the 25 population so significantly in the early months of</p>

<p style="text-align: right;">Page 154</p> <p>1 the pandemic but now supposedly they can't?</p> <p>2 A That required substantial coordination</p> <p>3 among many different criminal justice actors</p> <p>4 including the Courts, the DAs, defense bar,</p> <p>5 Mayor's Office of Criminal Justice and along with</p> <p>6 Correctional Health Services in terms of</p> <p>7 compassionate release applications, et cetera.</p> <p>8 That required a huge effort from all city</p> <p>9 partners in the criminal justice system to</p> <p>10 identify as many people as possible who were</p> <p>11 eligible for some form of release under different</p> <p>12 mechanisms, whether it be pretrial release or</p> <p>13 under the 6A provision where the Department has</p> <p>14 the authority to release certain individuals who</p> <p>15 are coordinating with the state regarding release</p> <p>16 of people with parole violation, things like that.</p> <p>17 But that was a city-wide effort that we</p> <p>18 have not seen sustained throughout the course of</p> <p>19 the pandemic.</p> <p>20 Q Largely because the city has chosen not to</p> <p>21 continue vigorously pursuing that; correct?</p> <p>22 A That and if -- their stated belief that</p> <p>23 they can safely mitigate conditions in the</p> <p>24 facilities.</p> <p>25 Q Has that belief proven to be true or not?</p>	<p style="text-align: right;">Page 156</p> <p>1 available to detainees; correct?</p> <p>2 A Correct.</p> <p>3 Q Do the Board's inspections and reports</p> <p>4 indicate that cleaning supplies consistently have</p> <p>5 been available to detainees or has there been a</p> <p>6 lack of consistency in the availability of</p> <p>7 cleaning supplies?</p> <p>8 A I think our inspections have shown that</p> <p>9 there has been some inconsistency but certainly we</p> <p>10 have also observed there being cleaning supplies</p> <p>11 routinely available in certain areas.</p> <p>12 Q One thing we've heard about in this case</p> <p>13 is the issue of cleaning supplies being in</p> <p>14 janitors' closets that are locked up?</p> <p>15 A Yeah.</p> <p>16 Q It's not easy to access them quickly, like</p> <p>17 there might be significant lag time in being able</p> <p>18 to get an officer such that you can get the closet</p> <p>19 unlocked and then get the cleaning supplies and</p> <p>20 mix them and apply them to the point where it</p> <p>21 might totally undermine the point of their</p> <p>22 availability, if you need to to make a phone call,</p> <p>23 have an attorney-client visit or something like</p> <p>24 that.</p> <p>25 Have you at the Board encountered any</p>
<p style="text-align: right;">Page 155</p> <p>1 A I think there are -- that there's -- they</p> <p>2 have been successful in keeping the spread to a</p> <p>3 minimum at times but we've seen -- we've seen with</p> <p>4 the increase in the population that those</p> <p>5 mitigation efforts are proving more difficult for</p> <p>6 them to maintain.</p> <p>7 Q The Board has consistently recommended</p> <p>8 that staff wear surgical or N95 masks, not just</p> <p>9 cloth masks; correct?</p> <p>10 A I don't know that we've specified at that</p> <p>11 level of detail. I think we've recommended mask</p> <p>12 usage and we recommend following the CDC</p> <p>13 guidelines so, yes, to the extent that that</p> <p>14 reflects the CDC guidelines we have recommended</p> <p>15 that.</p> <p>16 Q Sorry, go ahead.</p> <p>17 A That's all.</p> <p>18 Q The Department has not implemented a</p> <p>19 requirement or forced a requirement of wearing a</p> <p>20 surgical, or N95 mask, the Department has treated</p> <p>21 a cloth mask as being adequate; correct?</p> <p>22 A Yes.</p> <p>23 Q Since the beginning of the pandemic or</p> <p>24 early on in the pandemic the Board has recommended</p> <p>25 that cleaning supplies be consistently made</p>	<p style="text-align: right;">Page 157</p> <p>1 issues like that regarding the practicality of how</p> <p>2 available supplies are such as, you know, them</p> <p>3 being locked up behind a locked door and so it's</p> <p>4 hard for people to get them, things like that?</p> <p>5 A I think we have heard of that issue and I</p> <p>6 would need to consult our housing area checklist</p> <p>7 to confirm how often that we found that on site.</p> <p>8 But I think there are -- there may be certain</p> <p>9 situations where it's definitely appropriate to</p> <p>10 have those supplies locked up.</p> <p>11 For example, I know in mental observation</p> <p>12 units, it's not considered a best practice to have</p> <p>13 those supplies readily available for certain</p> <p>14 populations.</p> <p>15 So I do think there are some nuance to</p> <p>16 this but I would go back to the Board's original</p> <p>17 recommendations on the sanitation audits that the</p> <p>18 Department conducts where we recommended that</p> <p>19 those audits include documentation of whether or</p> <p>20 not the sanitation is actually occurring. So</p> <p>21 that's one gap in the -- in those audits that the</p> <p>22 Department has -- one recommendation that the</p> <p>23 Department has never implemented is the actual</p> <p>24 recording of whether or not sanitation is</p> <p>25 occurring, not just the availability of the</p>

<p style="text-align: right;">Page 158</p> <p>1 supplies themselves.</p> <p>2 Q That was going to be my next -- sorry, go</p> <p>3 ahead, Miss Turner?</p> <p>4 A No, that's all.</p> <p>5 Q That was going to be my next question.</p> <p>6 Since early on in the pandemic the Board</p> <p>7 has recommended sanitization of phones every two</p> <p>8 hours by Department staff; correct?</p> <p>9 A I think that was actually what the</p> <p>10 Department suggested they would encourage or would</p> <p>11 be their policy that they would do.</p> <p>12 Q Have they done it?</p> <p>13 A I don't know. It's not being recorded in</p> <p>14 a systematic way.</p> <p>15 Q Another thing that's been recommended is</p> <p>16 spacing of beds such that there's at least six</p> <p>17 feet of distance between each ETD in dormitory</p> <p>18 style housing units; correct?</p> <p>19 A Correct.</p> <p>20 Q Has the Department consistently made that</p> <p>21 type of social distancing happen or has the city</p> <p>22 been inconsistent?</p> <p>23 A That has not consistently happened. In</p> <p>24 fact, the majority of housing areas or dormitory</p> <p>25 housing areas have not been operating at a</p>	<p style="text-align: right;">Page 160</p> <p>1 dignity, which is of course the first and foremost</p> <p>2 consideration, but also for the safety and</p> <p>3 security of the facility; correct?</p> <p>4 A Correct.</p> <p>5 Q Because detainees who are suffering from</p> <p>6 more mental health problems, who are more anxious</p> <p>7 or agitated might be more likely to act out;</p> <p>8 correct?</p> <p>9 A Yes.</p> <p>10 Q Signage, can you tell us what the Board's</p> <p>11 recommendations have been regarding signage and</p> <p>12 educational materials about PPE, distancing, those</p> <p>13 kinds of things?</p> <p>14 A So we have consistently recommended that</p> <p>15 information about how individuals can protect</p> <p>16 themselves be available to people in custody in</p> <p>17 all housing areas, in multiple languages.</p> <p>18 And one of the recommendations that -- I</p> <p>19 believe the recommendations made in our</p> <p>20 observational findings, the Genetec reports, that</p> <p>21 we've released included the public health</p> <p>22 campaign, recommendations for a public health</p> <p>23 campaign where -- that the Department use credible</p> <p>24 messengers to communicate with people in custody</p> <p>25 about the risks and how to address them as best</p>
<p style="text-align: right;">Page 159</p> <p>1 capacity that would allow for alternate bed</p> <p>2 spacing.</p> <p>3 Q And alternate bed spacing is the skipping</p> <p>4 every other bed on the floor such that you can</p> <p>5 create six feet distance; right?</p> <p>6 A Correct.</p> <p>7 Q And of course because the people in these</p> <p>8 housing units are incarcerated, they really have</p> <p>9 nowhere to go, they are kind of helpless to</p> <p>10 distance -- to try and distance themselves; right?</p> <p>11 A Correct.</p> <p>12 Q Have any inmates reported to the Board</p> <p>13 what the -- in addition to just directly getting</p> <p>14 COVID what the mental health ramifications are of</p> <p>15 that type of situation?</p> <p>16 A Yes, we've seen in both the complaints</p> <p>17 received by the Board directly and in the</p> <p>18 grievances received by the Department which we've</p> <p>19 reviewed concerns about the greater anxiety</p> <p>20 regarding their exposure to COVID 19 and their</p> <p>21 inability to protect themselves, which</p> <p>22 definitely -- definitely relates to individuals</p> <p>23 mental health while in custody.</p> <p>24 Q And maintaining good mental health among</p> <p>25 detainees or not just for their own personal</p>	<p style="text-align: right;">Page 161</p> <p>1 they can in custody.</p> <p>2 We also worked with City Council on the</p> <p>3 recording requirements in Local Law 59 which was</p> <p>4 passed in June of 2020 which required additional</p> <p>5 public reporting and also involved the requirement</p> <p>6 that weekly updates be shared with people in</p> <p>7 custody. And those, since that local law went</p> <p>8 into effect the Department has been producing</p> <p>9 weekly COVID fliers, which it reports are supposed</p> <p>10 to be distributed to everyone, every house --</p> <p>11 everyone in every housing area across all</p> <p>12 facilities each week. So we receive a copy of</p> <p>13 that flier.</p> <p>14 There have been -- and that is a -- one of</p> <p>15 the recommendations that has been implemented</p> <p>16 through that local law requirement that's now in</p> <p>17 Local Law 59, that the Department has been</p> <p>18 following since, I believe -- I think the first --</p> <p>19 I think it may have gone into effect either at the</p> <p>20 very end of June 2020 or early July 2020, and so</p> <p>21 that has been one of the mechanisms by which the</p> <p>22 Department has been communicating guidance and</p> <p>23 public health-related information.</p> <p>24 But we've also found that in-person</p> <p>25 communication from other credible messengers would</p>

<p style="text-align: right;">Page 162</p> <p>1 be helpful and necessary to communicate and we've 2 reiterated that recommendation, which has been 3 implemented to a certain extent by Correctional 4 Health staff sometimes going directly into the 5 housing units.</p> <p>6 But I don't know and can't speak to how 7 consistently other forms of communication as part 8 of that public health campaign have been 9 implemented beyond the weekly -- beyond the weekly 10 fliers that include information, ongoing updates, 11 about the status of COVID 19 in general and in the 12 jails.</p> <p>13 Q Miss Turner, you mentioned the phrase 14 credible messengers, can you summarize what that 15 means and its context?</p> <p>16 A In this context I think what we have in 17 mind with that recommendation is public health 18 staff or civilian staff that would be 19 communicating from a point of expertise related to 20 health recommendations and conditions regarding 21 the pandemic.</p> <p>22 Q Do you know what the Board has recommended 23 in terms of educating detainees about vaccines and 24 dispelling myths about vaccines and misinformation 25 about vaccines?</p>	<p style="text-align: right;">Page 164</p> <p>1 recommended it in a public report, per se, but 2 we've raised the issue with the Department and I 3 think that's part of the -- of an approach that is 4 necessary to ensure staff compliance.</p> <p>5 Q Because the reality is you can give people 6 all the education in the world and all the 7 reminders in the world, first reminder, second 8 reminder, third reminder, but eventually if people 9 think there are going to be no consequences, 10 you're going to see violation of the rules; right?</p> <p>11 A Yes.</p> <p>12 Q So ultimately mandatory discipline is an 13 important tool to ensure that maybe people who 14 don't want to follow the rules do follow the 15 rules; right?</p> <p>16 A Right.</p> <p>17 Q Does the Board have an observation or do 18 you have an observation as to whether the 19 Department's use of discipline has been effective 20 or not effective?</p> <p>21 A I don't -- I don't know the extent to 22 which discipline has been actually been imposed, 23 so I can't speak to whether or not it's effective 24 or not because I don't know the extent to which 25 it's actually happening.</p>
<p style="text-align: right;">Page 163</p> <p>1 A We've also recommended a similar approach 2 with respect to vaccines and I know that the 3 Department and Correctional Health have been using 4 the weekly fliers to communicate public health 5 information related to the vaccines and that's 6 been -- that combined with Correctional Health 7 staff going into housing areas and talking to 8 people in custody has been the mechanism by which 9 Correctional Health has sought to encourage 10 vaccinations, the Department and Correctional 11 Health have sought to encourage vaccination in 12 those ways.</p> <p>13 MR. KEENAN: Just a note, David and 14 Chuck, maybe you already produced those fliers but 15 if you haven't it would be interesting to take a 16 look at them so I guess we'd request that.</p> <p>17 Q (By Mr. Keenan) And on discipline, 18 Miss Turner, has it been the recommendation of the 19 Board since early on in the pandemic that 20 discipline is something that needs to be done if 21 there are correction officers who do not follow 22 mask, PPE or other mandates regarding safety 23 during COVID 19?</p> <p>24 A Certainly that is something that the Board 25 believes should be an option. We've not formally</p>	<p style="text-align: right;">Page 165</p> <p>1 Q Would you be surprised to learn that, at 2 least according to the most recent information we 3 have, whether it be command disciplines, which is 4 a less formal method of discipline, not one formal 5 disciplinary process has been initiated on a 6 correction officer in the entire system for 7 improper mask wearing, memorandum of complaint?</p> <p>8 A That does not actually surprise me.</p> <p>9 Q Tell me why not.</p> <p>10 A Because there's a long history of the 11 Department not imposing discipline on staff for 12 far more serious violations.</p> <p>13 Q Okay. Like what?</p> <p>14 A Like inappropriate use of force or other 15 more serious violations of DOC policy.</p> <p>16 Q Why do you think the Department is so 17 reluctant to use discipline or formal discipline?</p> <p>18 A I think for this particular issue, the 19 issue of mask usage, is I think because it's not, 20 not viewed as a more serious violation as 21 violations of policy go. So I think that might be 22 contributing to it.</p> <p>23 But also I think, as we all know, it's not 24 an easy thing to comply with all day every day 25 wearing a mask at your job, and so I think there</p>

<p style="text-align: right;">Page 166</p> <p>1 is some reluctance to enforce -- enforce a policy 2 that would come down on staff for that violation. 3 And currently there are staff shortages and so I 4 think disciplining staff for that would be 5 difficult for Department leadership to do at this 6 stage without discouraging staff even further, 7 lowering staff morale further. That's my personal 8 opinion. 9 Q Do you base that on any discussions with 10 Department leadership? 11 A No, not directly, just that's my sense of 12 that. My impression I get from our staff that 13 have been touring the jails is that staff morale 14 is at an all-time low, and so I wouldn't -- 15 wouldn't expect this to be the first priority of 16 the Department to discipline staff for this 17 particular issue. 18 Q Has there been any recommendation of, you 19 know, finding other ways to maybe give staff a 20 breather literally on wearing masks during the 21 course of the day, such as by rotating them so 22 maybe every couple hours they get some time 23 outside so they can take their mask off or 24 something like that? 25 A What was the question, have we recommended</p>	<p style="text-align: right;">Page 168</p> <p>1 alcohol prep pad and some of the detainees who we 2 talked to during the course of this situation have 3 said that they will get alcohol swabs or alcohol 4 wipes from medical staff and use those to clean 5 down phones. 6 Have you encountered that situation? 7 A I've not witnessed that directly. 8 Q Have you heard of that? 9 A I had not. 10 Q Okay. What would be -- would there be any 11 downside at all to just making these little prep 12 pads available to detainees so they can at least 13 clean down phones? 14 A I haven't -- I don't see any immediate 15 downside but there could be -- there could be 16 issues that I'm not anticipating, but I don't see 17 a downside. 18 Q Does that seem to you based on your 19 experience dealing with the operation of the 20 Department in overseeing and monitoring its 21 operations to be a reasonable and effective 22 inter-prevention to allow people to sanitize 23 high-touch surfaces? 24 A Yes, it does. 25 Q In fact, the Board of Correction</p>
<p style="text-align: right;">Page 167</p> <p>1 that or has -- 2 Q Yeah, either. 3 A We haven't recommended that. I think what 4 we've -- the way we've raised the issue with the 5 Department is that we acknowledge that it's a 6 challenge and understand why it may be a challenge 7 but that there needs to be an example set from the 8 top, set from facility leadership, from Department 9 leadership and constant communication with staff 10 about why this is important. 11 But that has not been part of our 12 conversation, although maybe a good recommendation 13 albeit one that is may be potentially very 14 difficult to operationalize and implement. 15 Q Looking over some notes here. Give me 16 just a minute or two. I'm going to check one 17 thing. I think we're done, if not, it will be 18 very brief. 19 MR. THAYER: E.E., while you're doing 20 that I'm just going to check with Chuck to see if 21 we're going to ask any questions. 22 (OFF-THE-RECORD DISCUSSION.) 23 Q (By Mr. Keenan) We're back on the record 24 after adjust a really quick pause. 25 Miss Turner, I've got in my hand an</p>	<p style="text-align: right;">Page 169</p> <p>1 recommended wipes at some point as an alternative 2 to Virex sponges in a bucket; correct? 3 A I believe at one point we may have. I 4 don't remember the exact contents, but, yes. 5 Q Do you know where that recommendation went 6 or what happened with that recommendation? 7 A In response I believe they just said that 8 Virex is an effective mechanism to clean the 9 phones so that's how we will be doing it. 10 Q Basically the Board is powerless to 11 overrule them when they say that; right? 12 A That's right. 13 MR. KEENAN: Miss Turner, thank you 14 very much for your time today. We appreciate all 15 your time and patience and thank you very much for 16 your time today. I've got no further questions 17 for you at this time and congratulations. 18 THE WITNESS: Thank you. Is that it 19 totally? 20 MR. THAYER: I'm not going to have 21 anything. 22 MR. ORSLAND: That's it, Miss Emily. 23 THE WITNESS: You're going to send me 24 the spreadsheet for the additional documents? 25 MR. ORSLAND: Yes, it's additional</p>

<p>Page 170</p> <p>1 exhibits. We'll get them to counsel then we'll 2 send it to you and Kate and we'll do some kind of 3 stipulation or certification. 4 THE WITNESS: Right, thank you. 5 THE REPORTER: What about signature? 6 Is it going somewhere for signature or waiving? 7 What are we doing with signature, I guess? 8 MR. ORSLAND: Send everything to us; 9 right? 10 THE REPORTER: I figure there's an 11 order out there but -- 12 MR. ORSLAND: I don't think so, E.E. 13 will just send us a transcript and we'll have the 14 witness sign it. 15 MR. KEENAN: Brenda, it works that 16 the standard procedure is a little different in 17 New York. The ordering party typically furnishes 18 a copy of the transcript to the non-taking party 19 so we can just work out, you know, how -- what you 20 guys would charge us to do that. We can talk with 21 Tricia and Pat about, et cetera, it's just that 22 the procedure is a little bit different. 23 THE REPORTER: I figured something had 24 been set if you've already taken deposition. 25 MR. KEENAN: Thank you so much</p>	<p>Page 172</p> <p>1 ERRATA SHEET 2 RE: JEAN AZOR-EL, ET AL., vs. CITY OF NEW YORK, ET AL 3 DEPOSITION OF: EMILY TURNER 5-13-21 4 PG/LN NO. CORRECTION REASON FOR CHANGE 5 :_____:_____:_____ 6 :_____:_____:_____ 7 :_____:_____:_____ 8 :_____:_____:_____ 9 :_____:_____:_____ 10 :_____:_____:_____ 11 :_____:_____:_____ 12 :_____:_____:_____ 13 14 I certify that I have read my deposition in the above case and I request that no changes be made. 15 16 I certify that I have read my deposition in the above case and I request that the above changes be made. 17 18 EMILY TURNER 19 STATE OF _____) 20 COUNTY OF _____) 21 Subscribed and sworn to before me this _____ day of 22 _____, 2019. 23 NOTARY PUBLIC 24 My Commission expires: _____ 25</p>
<p>Page 171</p> <p>1 everybody, and I wish you all the best safety and 2 health. Thanks so much. 3 I paused the recording and now we're, I 4 guess, off the record. 5 (OFF-THE-RECORD DISCUSSION.) 6 * * * * * 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>Page 173</p> <p>1 NOTARIAL CERTIFICATE 2 STATE OF KANSAS) 3 COUNTY OF JOHNSON) 4 I, BRENDA FITZGERALD, Certified Shorthand Reporter for the State of Kansas, do hereby certify 5 that pursuant to NOTICE OF DEPOSITION, via videoconference 6 EMILY TURNER, 7 8 came before me, was by me duly sworn to testify the whole truth of her knowledge of the matters in controversy aforesaid, was examined and her 9 examination then written in shorthand by me and afterwards typed, presentment of the deposition to the 10 witness being expressly waived by counsel and the witness, as hereinbefore set forth, on the day in that 11 behalf aforesaid; that the deposition is hereafter, by the witness, to be read over, signed and sworn to; and 12 thereafter, said deposition to be returned; that signature was waived by the parties. 13 I further certify that I am not counsel or relative of either party, or clerk or stenographer of 14 either party, or of the attorney of either party, or otherwise interested in the event of this suit. 15 IN TESTIMONY WHEREOF, I have hereunto set my hand and seal at my office in said County and State, 16 this 1st day of June 2021. 17 18 19 /s/Brenda Fitzgerald, CCR, No. 1713 Heritage Reporting 20 111 W. 10th Street, Suite 1000 Kansas City, Missouri 64105 21 22 23 24 25</p>