

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JEAN AZOR-EL, et al, Case No. 1:20-CV-03650-KPF
Plaintiffs,
v.

CITY OF NEW YORK, et al,
Defendants.

VIDEOTAPED DEPOSITION OF WITNESS, ROSS
MACDONALD, produced, sworn, and examined on May 24,
2021, between the hours of 2:10 p.m. and 4:56 p.m. of
that day, via Zoom teleconference, before
LIEBE STEVENSON, a Certified Court Reporter within and
for the State of Missouri.

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<p>1 EXAMINATION INDEX Page 2</p> <p>2 PATRICIA FEENEY</p> <p>3 BY MR. KEENAN 4</p> <p>4 EXHIBIT INDEX</p> <p>5 EXHIBIT</p> <p>6 33 RIKERS - 30(B)(6) NOTICE OF DEPOSITION - 5</p> <p>7 34 DEPARTMENT OF CORRECTION (1)</p> <p>8 34 2269R-A WEARING FACE MASKS- FACE COVERINGS 55</p> <p>9 55 BOC_000201 33</p> <p>10 65 BOC_000124 34</p> <p>11 87 BOC_001734 76</p> <p>12 88 BOC_001859 77</p> <p>13 93 BOC_001877 79</p> <p>14 100 BOC_002200 80</p> <p>15 109 BOC_001508 75</p> <p>16 110 BOC_000063 60</p> <p>17 111 BOC_000050 62</p> <p>18 128 SPREADSHEET - BATES NYC 1365 18</p> <p>19 129 DIRECTIVE CLASSIFICATION NUMBER 2269 R-B 27</p> <p>20 130 TELETYPE ORDER HQ624 - BATES STAMPED NYC 57</p> <p>21 336, NYC 338</p> <p>22 131 BATES STAMP NYC 405 THROUGH 408 66</p> <p>23 132 BATES STAMP NYC 381 68</p> <p>24 133 BATES STAMP NYC 388 68</p> <p>25 134 BEGINNING BATES STAMP NYC 401 71</p> <p>26 135 BEGINNING BATES STAMP NYC 423 71</p>	<p>1 PATRICIA FEENEY, having been duly sworn Page 4</p> <p>2 at approximately 2:41 p.m. on May 26, 2021, was</p> <p>3 examined and testified as follows:</p> <p>4 EXAMINATION</p> <p>5 BY MR. KEENAN:</p> <p>6 Q. Good afternoon, Deputy Commissioner Feeney. How</p> <p>7 are you today?</p> <p>8 A. I'm well. How are you?</p> <p>9 Q. I'm doing well. We have met before and we've had</p> <p>10 a prior deposition in this case. But again, for the</p> <p>11 record, I'm E.E. Keenan. I'm one of the attorneys</p> <p>12 representing a group of current and former detainees in</p> <p>13 the New York City Department of Corrections concerning</p> <p>14 conditions in the Department of Corrections during</p> <p>15 COVID.</p> <p>16 You understand you're here today as the</p> <p>17 designated representative of the New York City</p> <p>18 Department of Corrections and City of New York to give</p> <p>19 a deposition on various topics that have been noticed,</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And do you feel physically and mentally</p> <p>23 able to proceed with the deposition and testify today?</p> <p>24 A. Yes.</p> <p>25 Q. And are you aware of any reason why your</p>
<p>1 EXHIBIT INDEX Page 3</p> <p>2 136 BEGINNING BATES STAMP NYC 409 72</p> <p>3 137 COVID DAILY SURVEY FOR MDC FOR MARCH 23 72</p> <p>4 138 BEGINNING BATES NUMBER 394 74</p> <p>5 139 BEGINNING BATES NUMBER 413 75</p> <p>6 140 NEW YORK CITY BOARD OF CORRECTION 82</p> <p>7 MONITORING COVID 19 RESPONSES IN NEW YORK</p> <p>8 CITY JAIL, APRIL 5 THROUGH MAY 11, 2020,</p> <p>9 PUBLISHED MAY 11, 2020</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 deposition should not move forward at this time? Page 5</p> <p>2 A. No.</p> <p>3 Q. Okay. I'm going to be sharing documents</p> <p>4 throughout the deposition. And the first document that</p> <p>5 I'm going to share is the notice of today's deposition.</p> <p>6 So let me bring that up.</p> <p>7 (Exhibit Number 33 was marked for identification.)</p> <p>8 BY MR. KEENAN:</p> <p>9 Q. And Deputy Commissioner Feeney, do you recognize</p> <p>10 this document which has been previously marked as</p> <p>11 Exhibit 33 in this case?</p> <p>12 A. Yes.</p> <p>13 Q. This is the current notice of corporate</p> <p>14 representative deposition that was sent on the City which</p> <p>15 you have been designated to testify on various topics,</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. All right. Is it your understanding that you are</p> <p>19 the representative of the City on all topics except for</p> <p>20 topics related to discipline for mask wearing policies</p> <p>21 and non-compliance with mask wearing policies?</p> <p>22 A. And medical information.</p> <p>23 Q. Okay. Deputy Commissioner Feeney, I guess I'd ask</p> <p>24 to the extent that in your capacity your -- touches on</p> <p>25 this, but if not, then in your personal capacity, are you</p>

<p style="text-align: right;">Page 6</p> <p>1 doing any audits or anything to check on mask mandate</p> <p>2 compliance among correctional staff inside the</p> <p>3 department at this time?</p> <p>4 A. At this time no. Prior to April 1, yes.</p> <p>5 Q. What were you doing prior to April 1?</p> <p>6 A. The Compliance and Safety Center would be</p> <p>7 monitoring video. And if they found a staff member who</p> <p>8 was not wearing a mask, they would call the individual</p> <p>9 staff member and remind them to put their mask on.</p> <p>10 Q. So can you walk us through what that process was,</p> <p>11 of how videos were being monitored and how reminders</p> <p>12 were being given? I think that's the first time I've</p> <p>13 heard of this happening, so can you give us a general</p> <p>14 sense of how that program worked, please?</p> <p>15 A. Sure. The Compliance and Safety Center is a peer</p> <p>16 mentoring unit --</p> <p>17 (Court reporter interrupts for clarification.)</p> <p>18 A. I'm sorry. They're a peer mentoring unit, and</p> <p>19 they monitor video throughout the day working in</p> <p>20 various assigned areas at various assigned tasks. And</p> <p>21 while they were doing they were other assigned work, if</p> <p>22 they found a staff member who was not wearing masks,</p> <p>23 they would call the housing area or the location where</p> <p>24 that staff member worked, and a correction officer</p> <p>25 would speak to a correction officer.</p>	<p style="text-align: right;">Page 8</p> <p>1 running the audio through a computer, or are you</p> <p>2 running it through that polycom that you have on the</p> <p>3 table?</p> <p>4 A. It's through the computer.</p> <p>5 Q. Okay. I'm wondering if running your audio</p> <p>6 through the polycom might result in better sound</p> <p>7 quality, if you're able to make a call from that</p> <p>8 polycom phone?</p> <p>9 A. Do you have the number?</p> <p>10 MR. KEENAN: Yes, I can get that to you</p> <p>11 shortly.</p> <p>12 (An off-the-record discussion was held.)</p> <p>13 BY MR. KEENAN:</p> <p>14 Q. Deputy Commissioner Feeney, thank you for your</p> <p>15 patience there as we readjusted some of the audio and</p> <p>16 tech. We were talking before the break about the</p> <p>17 Compliance and Safety Center and how long it operated.</p> <p>18 I think you were telling us that it started operation</p> <p>19 in 2018 and ran through approximately April 1 of 2021,</p> <p>20 correct?</p> <p>21 A. Yes, March 30 was the last day.</p> <p>22 Q. Okay. March 30. So what were the functions of</p> <p>23 the Compliance and Safety Center when it was in</p> <p>24 operation?</p> <p>25 A. So as I said, the Compliance and Safety Center</p>
<p style="text-align: right;">Page 7</p> <p>1 If it was anybody other than a correction</p> <p>2 officer, the captain could be notified and captain</p> <p>3 would make the phone call.</p> <p>4 BY MR. KEENAN:</p> <p>5 Q. Okay. Deputy Commissioner Feeney, can you</p> <p>6 describe for us in greater detail what the Compliance</p> <p>7 Safety Center is, such as where it's located, who</p> <p>8 staffs it, etc.?</p> <p>9 A. It's located in the Chapel on Rikers Island, and</p> <p>10 it is staffed by captains and correction officers.</p> <p>11 Q. Is it staffed 24/7?</p> <p>12 A. It was, yes, prior to April 1.</p> <p>13 Q. Okay. How long did the Compliance Safety Center</p> <p>14 operate?</p> <p>15 A. It began in March of 2018. At that time, they</p> <p>16 operated from five in the morning until 9 p.m. At night</p> <p>17 when were the hours of --</p> <p>18 (Court reporter interrupts for clarification.)</p> <p>19 A. 5 a.m. to 9 p.m.</p> <p>20 THE WITNESS: Can you hear me?</p> <p>21 THE COURT REPORTER: It's difficult.</p> <p>22 I'm trying.</p> <p>23 BY MR. KEENAN:</p> <p>24 Q. Let me suggest this, I know -- are you running,</p> <p>25 Ms. Guillaume and Deputy Commissioner Feeney, are you</p>	<p style="text-align: right;">Page 9</p> <p>1 was designed for peer monitoring. We realized a great</p> <p>2 number of our officers had less than five years on the</p> <p>3 job and wanted to be able to support them along with</p> <p>4 the facility mentoring captains to improve their</p> <p>5 correctional skills.</p> <p>6 So we utilized the Compliance and Safety Center</p> <p>7 video monitoring to identify when staff maybe weren't</p> <p>8 performing all their tasks at 100 percent capacity.</p> <p>9 And the seasoned correction officer would call and</p> <p>10 speak to the officer on post and review policy with</p> <p>11 them. And they were also able to offer tips from their</p> <p>12 experience about how better to do their jobs. And if</p> <p>13 it was a person of a rank other than correction</p> <p>14 officer, then the correction officer who viewed the</p> <p>15 video would contact the captain and the captain would</p> <p>16 make the call.</p> <p>17 Q. Okay. Was the Compliance and Safety Center set</p> <p>18 up in collaboration with the Correction Officers</p> <p>19 Benevolent Association, or was it something that the</p> <p>20 department did on its own, or some other way?</p> <p>21 A. The department did it on its own.</p> <p>22 Q. How come the Compliance and Safety Center was</p> <p>23 phased out?</p> <p>24 A. It was -- the staff was temporarily transferred</p> <p>25 because of the staffing crisis that we had at the</p>

<p>Page 10</p> <p>1 moment.</p> <p>2 Q. So just to establish one thing, I think we</p> <p>3 already have established this, but it is</p> <p>4 technologically feasible for someone or some group of</p> <p>5 people, if you want to have more than was person doing</p> <p>6 it, to link in via computer to any video camera at</p> <p>7 Rikers, and I'll include the Vernon C. Bain Center in</p> <p>8 that, at any residential facility in the department,</p> <p>9 and view what that camera's view is at that time,</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And it is possible for the person who's</p> <p>13 viewing that video footage in realtime to then make a</p> <p>14 phone call directly to that unit to speak with the</p> <p>15 people who they see on that video feed, correct?</p> <p>16 A. Yes.</p> <p>17 Q. That was occurring up through March 30 of 2021</p> <p>18 with regard to mask compliance, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Was there a person or a team of persons dedicated</p> <p>21 solely to monitoring for mask compliance, or did they</p> <p>22 have other responsibilities, as well?</p> <p>23 A. Everybody was monitoring for mask compliance</p> <p>24 while they were doing their regularly assigned work.</p> <p>25 Q. What was their regularly assigned work?</p>	<p>Page 12</p> <p>1 staff that were seasoned, had time on the job and were</p> <p>2 able to answer a lot of, like, correctional 101 policy</p> <p>3 steps were hired based on their records, their</p> <p>4 attendance, their years in service, and their responses</p> <p>5 to the questions during the interview.</p> <p>6 Q. So these were all experienced correction officers</p> <p>7 who would be brought into the Compliance and Safety</p> <p>8 Center?</p> <p>9 A. Yes.</p> <p>10 Q. Once an officer got assigned to the Compliance</p> <p>11 and Safety Center, was it considered a permanent</p> <p>12 posting, or would it be, say, a stint, like you would</p> <p>13 be assigned here for three months or six months or a</p> <p>14 year, or something like that?</p> <p>15 A. No, it was intended to be permanent posting.</p> <p>16 Q. Would officers work the same tours as the rest of</p> <p>17 the facilities?</p> <p>18 A. Our tours were slightly different. We worked</p> <p>19 five to one, one to nine, and nine to five.</p> <p>20 Q. How many people on average worked in the</p> <p>21 Compliance and Safety Center on a given tour?</p> <p>22 A. Probably seven or eight. And then on Tuesday</p> <p>23 Wednesday and Thursday, the entire staff was working,</p> <p>24 so a few more on those days.</p> <p>25 Q. Did the Compliance and Safety Center also cover</p>
<p>Page 11</p> <p>1 A. We divide the days and weeks into different</p> <p>2 categories. So sometimes we're looking at visits.</p> <p>3 Sometimes we're looking at intake. Sometimes we're</p> <p>4 looking for secure cell doors. So it would just depend</p> <p>5 on what the focus was of that period of time.</p> <p>6 Q. I guess I'm trying to envision when the</p> <p>7 Compliance and Safety Center was like. Was it -- was</p> <p>8 it, say, a room or a set of rooms where people had</p> <p>9 desks and computers and were basically working from a</p> <p>10 desk during a shift at the Compliance and Safety</p> <p>11 Center? Or was it more fluid than that? Give me kind</p> <p>12 of a visual picture of what the Compliance and Safety</p> <p>13 Center looked like when it was in operation, please.</p> <p>14 A. It's a large room. In the back of the room is</p> <p>15 the area where the captain sits. In the front of the</p> <p>16 room are rows of computers where staff are assigned.</p> <p>17 And on the walls are additional screens so that we can</p> <p>18 monitor things on the wall, as well as on the computer</p> <p>19 screen.</p> <p>20 Q. How does an officer get assigned, or how did an</p> <p>21 officer get assigned to the Compliance and Safety</p> <p>22 Center?</p> <p>23 A. We issued a teletype stating that we had</p> <p>24 anticipated vacancies for the Compliance and Safety</p> <p>25 Center. A structured interview was conducted. And</p>	<p>Page 13</p> <p>1 whatever was going on at the Vernon C. Bain Center?</p> <p>2 A. Yes.</p> <p>3 Q. And just as a convention and shorthand, I'm going</p> <p>4 to refer -- probably will refer to Rikers throughout</p> <p>5 the deposition when I say "Rikers," unless I specify</p> <p>6 otherwise, I intend to include the Vernon C. Bain</p> <p>7 Center in that. Can we have that understanding and</p> <p>8 convention?</p> <p>9 A. Sure.</p> <p>10 Q. Okay. Since the Compliance and Safety Center was</p> <p>11 phased out on or about March 30 of 2021, has there been</p> <p>12 anyone with the assigned duty of monitoring video</p> <p>13 footage for compliance with mask mandates and</p> <p>14 contacting officers or staff who are found to not be in</p> <p>15 compliance with the mask mandate?</p> <p>16 A. Not full-time.</p> <p>17 Q. Something else?</p> <p>18 A. Well, I monitor video throughout the day. And if</p> <p>19 I see somebody not wearing a mask, then I'll call, but</p> <p>20 it's not a definitive number of hours every day. But I</p> <p>21 do look at the video every day.</p> <p>22 Q. How many calls did you make, say, yesterday?</p> <p>23 A. Yesterday I made one call to AMKC.</p> <p>24 Q. How about the day before, Monday?</p> <p>25 A. I don't think I made any on Monday.</p>

<p style="text-align: right;">Page 14</p> <p>1 Q. Have you made any today?</p> <p>2 A. No, I haven't done it yet today.</p> <p>3 Q. Okay. You've not done any monitoring today?</p> <p>4 A. No.</p> <p>5 Q. Okay. Did you do any monitoring on Monday?</p> <p>6 A. Yes.</p> <p>7 Q. For what period of time, approximately?</p> <p>8 A. Maybe an hour.</p> <p>9 Q. How about yesterday, Tuesday, the 25th of May,</p> <p>10 for about what period of time did you do monitoring?</p> <p>11 A. Probably the same thing, about an hour.</p> <p>12 Q. Would you say an hour a day is typical? More</p> <p>13 than typical? Less than typical?</p> <p>14 A. I really haven't been tracking, but it's probably</p> <p>15 about that time every day.</p> <p>16 Q. And you work how many days a week, Deputy</p> <p>17 Commissioner Feeney?</p> <p>18 A. Five definitely. Sometimes on the weekends.</p> <p>19 Q. Okay. Anyone besides you doing this type of</p> <p>20 monitoring of the videos for masks?</p> <p>21 A. I don't know.</p> <p>22 Q. When the Compliance and Safety Center was</p> <p>23 operating, did you track how many calls a day were</p> <p>24 typically being made to people to remind them to wear</p> <p>25 their masks?</p>	<p style="text-align: right;">Page 16</p> <p>1 of every facility all day long. It's spot checking.</p> <p>2 Q. Right.</p> <p>3 A. So yes, it's helpful. Yes, it's a good reminder</p> <p>4 to people to put masks on, but it's just one of many</p> <p>5 things that we do to remind staff to wear masks.</p> <p>6 Q. Okay. I want to also ask you Deputy Commissioner</p> <p>7 Feeney, are you doing any sanitation audits, say spot</p> <p>8 checking residential areas to see if sanitation</p> <p>9 supplies such as Virex are available and unlocked and</p> <p>10 ready for use by detainees?</p> <p>11 A. Okay. So let's be clear, the janitor closet</p> <p>12 should never be unsecured.</p> <p>13 Q. Okay.</p> <p>14 A. So I would not want to find janitor closets</p> <p>15 unsecured. When --</p> <p>16 Q. Okay.</p> <p>17 A. -- we need to access the chemicals, the</p> <p>18 correction officer in the area has the key, and they</p> <p>19 provide it.</p> <p>20 Q. Okay.</p> <p>21 A. There is a container of Virex at the telephones,</p> <p>22 so that's available all the time. But other than that,</p> <p>23 the chemicals should be secured unless they're in use.</p> <p>24 Q. The container of Virex at the telephones, is that</p> <p>25 a bucket of liquid with a sponge, or something else?</p>
<p style="text-align: right;">Page 15</p> <p>1 A. We documented the calls that they made. I</p> <p>2 didn't -- I don't know how many calls they made each</p> <p>3 day.</p> <p>4 Q. Do you have an approximation?</p> <p>5 A. I don't.</p> <p>6 Q. Okay. Certainly more than one a day, typically,</p> <p>7 correct?</p> <p>8 A. Probably, but I'd have to look.</p> <p>9 MR. KEENAN: Okay. David, Chuck, we</p> <p>10 might want to get some of those logs. That would be</p> <p>11 help helpful to take a look at, if they haven't been</p> <p>12 produced already.</p> <p>13 BY MR. KEENAN:</p> <p>14 Q. Did you find the Compliance and Safety Center's</p> <p>15 program of monitoring to be helpful?</p> <p>16 A. Yes.</p> <p>17 Q. Do you think that it was valuable in increasing</p> <p>18 mask adherence?</p> <p>19 A. It certainly didn't hurt.</p> <p>20 Q. Do you think it helped?</p> <p>21 A. Yes, for the time that they were monitoring.</p> <p>22 Q. You qualified that yes with a time they were</p> <p>23 monitoring. Tell me what you mean. Tell me what you</p> <p>24 were thinking about there.</p> <p>25 A. Well, it's not like we're monitoring every area</p>	<p style="text-align: right;">Page 17</p> <p>1 A. That's exactly what it is, a bucket of liquid with</p> <p>2 a sponge.</p> <p>3 Q. Do you do anything to -- and by you, I mean the</p> <p>4 department, do anything to audit or check to ensure that</p> <p>5 Virex actually is available in a bucket by the phones in</p> <p>6 each of the residential areas?</p> <p>7 A. So yes, between the quality assurance and</p> <p>8 integrity division and the interviewer of facility</p> <p>9 operation staff, we conduct daily audits in every</p> <p>10 facility, seven days a week.</p> <p>11 Q. During the audit process, how many total -- how</p> <p>12 many total residential units are there to check? And</p> <p>13 I'll include Rikers and Vernon C. Bain?</p> <p>14 A. I don't know. Hundreds.</p> <p>15 Q. Hundreds, right. Do you know on a typical day how</p> <p>16 many get checked?</p> <p>17 A. I don't know the number offhand.</p> <p>18 Q. Are there records of that?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Would you agree with me that still the</p> <p>21 greatest risk of introducing a COVID 19 into Rikers, is</p> <p>22 from staff and officers bringing it in with them after</p> <p>23 having contact with the broader community?</p> <p>24 A. Yes.</p> <p>25 Q. I'm going to show you another document here.</p>

<p style="text-align: right;">Page 18</p> <p>1 Also want to make sure that my screen is not -- is not 2 sharing that right? 3 A. No. 4 (Exhibit Number 128 was marked for identification.) 5 BY MR. KEENAN: 6 Q. Okay. All right. I'm going to make sure that we 7 are at the right exhibit number. I believe this next 8 exhibit is going to be marked as Deposition Exhibit 9 128. I'm going to open it here, and we'll talk a look 10 at it. 11 Deputy Commissioner Feeney, are you able to see 12 this spreadsheet that's been Bates stamped NYC 1365? 13 A. Yes. 14 Q. Can you tell us what this is? 15 A. No. 16 Q. Okay. You don't know whether this is a 17 spreadsheet of correction officers and staff who have 18 tested positive for COVID 19 from March forward -- or 19 March of 2020 forward, it appears? 20 A. That's what the information that's contained in 21 that spreadsheet, yes. 22 Q. Okay. The fact is that there continue to be 23 officers and staff who test positive for COVID 19, 24 correct? 25 A. Yes.</p>	<p style="text-align: right;">Page 20</p> <p>1 A. I do not, no. 2 Q. And when I say you, I'm talking corporate 3 capacity does the department -- 4 A. The department can tell you how many staff 5 received vaccinations at GMDC, but it does not know how 6 many staff may have gotten vaccinated on their own. 7 Q. Okay. Well you mentioned a term for, I think a 8 facility DMDC, is that correct? 9 A. GMDC the George Motchan Detention Center. 10 Q. Is that an open and operating facility for 11 housing detainees were, or is it being used for another 12 purpose right now? 13 A. It's used for other purposes. 14 Q. And is one of those purposes a vaccination site? 15 A. Yes. 16 Q. Do you know what percentage of -- if we were to 17 just go by the numbers at the vaccination site that the 18 department is running, do you know what percentage of 19 correction officers have received two doses of a two 20 dose vaccine or one dose of single dose vaccine? In 21 other words, what percentage of officers are fully 22 vaccinated? 23 A. I do not know. 24 Q. Okay. Would we be able to get those records from 25 the department? Do those records exist?</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. Do you track vaccination rates among Officers and 2 staff? 3 A. I do not, no. 4 Q. As recently as early April there were -- and we 5 know this cuts off at some point in April. There were 6 what -- from April 1 to April 9, we can see between 7 1,982 and 2,002 around 20 officers for staff tested 8 positive for COVID 19 between April 1 and April 9, 9 correct? 10 A. I see six there on the screen right now. 11 Q. Lets go count them. See April 5th there's an 12 officer this tested positive, and then we go through 13 someone else who's not, uniformed staff, but they're 14 tracking it. And this is a numbered at 1,982? 15 A. Uh-huh. 16 Q. And we go forward through positive case number 17 2,001 on April 9, 2021, correct? 18 A. Yes. 19 Q. Okay. About 30 officers and staff tested 20 positive for COVID 19 during that period between 21 April 5 and April 9, 2021, correct? 22 A. Yes. 23 Q. I think you told me just a moment ago, but 24 correct me if I am wrong, you don't track vaccination 25 rates among officers and staff?</p>	<p style="text-align: right;">Page 21</p> <p>1 A. Yes. 2 Q. Okay. Does the department keep daily totals of 3 how many correctional staff and officers are fully 4 vaccinated? 5 A. I don't know how they keep the records, but 6 again, it would only be for staff that availed 7 themselves of the vaccine at GMDC. 8 Q. Do you ask staff, and the you here means the 9 department, does the department ask staff to self- 10 report whether they have received the vaccine 11 elsewhere? 12 A. No, the City does not ask the staff vaccination 13 status. 14 Q. Okay. Why not? 15 A. Those are the instructions we were given. 16 Q. By whom? 17 A. DCAS. 18 Q. Division of Citywide -- or Department of Citywide 19 Administrative Services? 20 A. Yes. 21 Q. Okay. And can you describe the role of DCAS, the 22 DCAS, the Department of Citywide Administrative 23 services vis-a-vis vaccination at Rikers? 24 A. No. 25 Q. Okay. How come DCAS is giving instructions to</p>

<p style="text-align: right;">Page 22</p> <p>1 Department of Correction about whether they can ask DOC 2 staff about the vacations? 3 A. I was part of the return to office committees, 4 and during that that time we were told by DCAS that we 5 could not ask staff vaccination status. 6 Q. Who at DCAS said that? 7 A. I don't know the name of the person who spoke at 8 the meeting. 9 Q. Do you think it's a good idea if the department 10 were to ask staff to report whether they're vaccinated 11 or not for purposes of your information and planning? 12 A. Not necessarily. 13 Q. Why not? 14 A. We don't ask about any other vaccines people get. 15 Q. I understand that's kind of your status quo. I'm 16 asking you about whether you think it might be a good 17 idea? 18 A. I don't think it's necessary. It's a person's 19 personal medical decision whether or not they get it. 20 Q. Even during a pandemic you don't think it's 21 helpful information to have? 22 A. No. 23 Q. Could you implement a program just asking for 24 voluntary self-reporting? 25 A. I don't know if that would be allowed.</p>	<p style="text-align: right;">Page 24</p> <p>1 A. I don't know. 2 Q. Okay. Would you acknowledge that there have been 3 barriers in convincing correction officers to take the 4 vaccine? 5 A. Some people in the department have not wanted to 6 take the vaccine. 7 Q. Okay. Has there been any discussion of requiring 8 people who don't take the vaccine to work at places 9 where they're less likely to have contact with others, 10 or ultimately, if they have to be in a housing area, 11 requiring them to wear a mask at all times or engage in 12 other protective measures at all times? Has there been 13 any discussion of implementing any policies like that? 14 A. We have a policy that says staff should wear 15 masks. 16 Q. Okay. And we'll get to that policy in a minute, 17 but I want to focus in on the word "should." Your 18 understanding of department policy is that the policy 19 says that correction officers and staff should wear 20 masks at all times, it does not mandate that they wear 21 masks at all times, correct? 22 A. No, that's incorrect. The policy has been 23 updated and the current policy is that staff must wear 24 masks, unless -- if they're medically able to unless 25 they are eating or drinking.</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. Okay. It would be feasible and you could do it, 2 right? Like, it's physically possible, right? 3 A. I would imagine it's physically possible. 4 Q. Okay. Do you remember if any estimate has been 5 made about what percentage of correction officers and 6 staff are taking the vaccine or have taken the vaccine? 7 A. I don't know what the number is right now. 8 Q. Has anyone talked about an estimate? 9 A. The last I heard it was in the 20 percent -- 23 10 percent, I think, was the last time I heard. Again, 11 that was all what was given at GMDC, and that was a 12 couple of weeks ago. 13 Q. Okay. Around 23 percent a couple weeks ago, do 14 you know -- and I suppose we can get statistics on 15 this. But of the adult population of New York City, 16 we're now looking at vaccination rates of -- I think 17 it's above 50 percent, right? 18 A. I'm not sure the exact number. 19 Q. Fair to say that the vaccination rates of 20 correction officers is probably lower than the general 21 adult population of New York City, correct? 22 A. Not necessarily. People might have gone to their 23 own private physicians and gotten vaccinated, so I 24 don't know. 25 Q. Okay. Your testimony is you just don't know?</p>	<p style="text-align: right;">Page 25</p> <p>1 Q. Okay. When -- that would be quite a recent 2 update, I assume. When did this version of the policy 3 you're talking about go into effect? 4 A. When the City guidance changed, our policy 5 changed, so it was probably the beginning of May. 6 Q. Okay. 7 MR. KEENAN: Chuck, David, do you know 8 if you all have a copy of that? 9 MR. THAYER: Is this the updated mask 10 policy that was, I believe, dated May 4th? 11 THE WITNESS: Yes, that sounds like the 12 right date. I believe it's RB. I don't remember the 13 number offhand. 14 MR. THAYER: The May 4th directive or 15 policy was produced to you. I think that's what we 16 discussed during the course of Chief Scott's 17 deposition. 18 MR. KEENAN: Okay. Let me see here. 19 Let me look at my index here. 20 MR. THAYER: I believe it was May 4. 21 Let me see if I can -- I'm having some connectivity 22 issues with my remote desktop. Let me see if I can get 23 you a Bates stamp number. 24 MR. KEENAN: I'm seeing -- I'm seeing a 25 policy called that's dated March 4. Is there a</p>

<p style="text-align: right;">Page 26</p> <p>1 different one dated May 4th?</p> <p>2 THE WITNESS: There's one in early May.</p> <p>3 MR. KEENAN: Okay. Because I'm looking</p> <p>4 at the exhibits that we marked during Chief Scott's</p> <p>5 deposition. And all I'm seeing is the March -- the</p> <p>6 March policy. Let's see here. I'm going to see if</p> <p>7 during Chief Scott's deposition we got a new production</p> <p>8 or something. Certainly, wouldn't be before May 4.</p> <p>9 I think we took -- took Chief Scott on</p> <p>10 April 29, or April 28, or something like that, so I</p> <p>11 don't think we would have had that at Chief Scott's</p> <p>12 prior deposition, because May 4 had not come -- come</p> <p>13 yet. So I don't think that we have that document.</p> <p>14 MR. THAYER: Melissa, are you able to,</p> <p>15 if you are aware of that policy, are you able to send</p> <p>16 it to me now and maybe send it to along to Plaintiff's</p> <p>17 counsel?</p> <p>18 MS. GUILLAUME: I am not in front of my</p> <p>19 computer since I'm here. I was trying check through my</p> <p>20 emails now.</p> <p>21 MR. THAYER: Okay.</p> <p>22 MS. GUILLAUME: Try to find the</p> <p>23 distribution of it.</p> <p>24 MR. KEENAN: Why don't we take a few</p> <p>25 minutes off the record and see if we can track that</p>	<p style="text-align: right;">Page 28</p> <p>1 covering/mask that covers the staff member's mouth and</p> <p>2 nose at all times:</p> <p>3 "When a shared indoor city work space, a shared</p> <p>4 indoor city workplace is defined as a space in which a</p> <p>5 person is physically present with at least one other</p> <p>6 persons and the persons cannot be separated by a closed</p> <p>7 door.</p> <p>8 "Two, when interacting with members of the public</p> <p>9 and other city employees, and when they cannot maintain</p> <p>10 six feet of distance from other people. "Note:</p> <p>11 Removal of face covering/mask is only accepted when</p> <p>12 eating and or drinking."</p> <p>13 Did I read that correctly?</p> <p>14 A. Yes, you did.</p> <p>15 Q. And my guess is maybe it was just an oversight or</p> <p>16 something. I don't actually see the words, "All staff</p> <p>17 members able to medically tolerate a face covering/mask</p> <p>18 must wear a mask." Maybe that's the intention, I don't</p> <p>19 know. But is that the way this policy is being read?</p> <p>20 Because it doesn't actually say those words.</p> <p>21 A. Yes, that's what it's suppose -- staff are</p> <p>22 supposed to wear a mask --</p> <p>23 Q. Okay.</p> <p>24 A. -- unless they're eating or drinking, if they're</p> <p>25 medically able to do so.</p>
<p style="text-align: right;">Page 27</p> <p>1 down, because it seems like a fairly important document</p> <p>2 for us to talk about if it exists, so ..</p> <p>3 MS. GUILLAUME: It exists.</p> <p>4 MR. KEENAN: So we'll go off the record</p> <p>5 here for a moment.</p> <p>6 (A break was taken from 3:24 p.m. until 3:29 p.m.)</p> <p>7 (Exhibit Number 129 was marked for identification.)</p> <p>8 BY MR. KEENAN:</p> <p>9 Q. Deputy Commissioner Feeney, we're back on the</p> <p>10 record after taking some time off the record to track</p> <p>11 town a document that I'm now going to share on the</p> <p>12 screen. And this is going to be marked as Exhibit 129 in</p> <p>13 this case.</p> <p>14 Can you see on the screen here Directive</p> <p>15 Classification Number 2269 R-B, as in boy?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And this is a directive I think you were</p> <p>18 referencing before we went off the record dated May 5,</p> <p>19 2021. It's a two-page directive that is signed by</p> <p>20 Department Chief Hazel Jennings and Commissioner Cynthia</p> <p>21 Brann regarding wearing face coverings, masks, correct?</p> <p>22 A. Yes.</p> <p>23 Q. And so underlined in bold are the changes, and it</p> <p>24 says, "Policy. It is the policy of the department that</p> <p>25 all staff members able to medically tolerate a face</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. All right. Has this been distributed to all</p> <p>2 staff at Rikers including VCBC?</p> <p>3 A. I don't know if the directive itself has been</p> <p>4 given to every staff member, but staff are required to</p> <p>5 read the new policy at roll call.</p> <p>6 Q. Okay. Perhaps a technical point, but are they</p> <p>7 going to re-issue this so it actually says, "You have</p> <p>8 to wear a mask?"</p> <p>9 A. I will look into that, yes.</p> <p>10 Q. All right. Here's what I want to understand</p> <p>11 about this policy which we've marked as Exhibit 129.</p> <p>12 It says on subsection two, this Roman Numeral II, sub</p> <p>13 A, sub Arabic 2. It says, "When interacting with</p> <p>14 members of the public and other city employees and when</p> <p>15 they cannot maintain six feet of distance from other</p> <p>16 people." So what I want to understand is, how does</p> <p>17 this mandate apply in housing area inside Rikers, or</p> <p>18 the boat?</p> <p>19 A. Staff are expected to wear their masks that</p> <p>20 covers their nose and mouth, except for when they're</p> <p>21 eating or drinking, if they're physically able to.</p> <p>22 Q. And so in other words, your expectation is that</p> <p>23 even if officers or staff anticipate that they will be</p> <p>24 able to maintain six feet of distance from other</p> <p>25 people, they are still required to wear a mask indoors</p>

<p style="text-align: right;">Page 30</p> <p>1 if they are medically able to tolerate it and they're 2 not eating or drinking, correct? 3 A. Yes. 4 Q. Okay. So in other words, my understanding of 5 what this directive is intended to do is it eliminates 6 the six foot exception that had previously existed 7 under a prior version of the policy, correct? 8 A. Yes. 9 Q. All right. And should officers and staff ever be 10 eating or drinking in a housing area? 11 A. They may be eating or drinking in a housing area. 12 Q. Okay. That is permitted while they're on duty in 13 a housing area? 14 A. Yeah. 15 Q. Okay. At roll call, have officers been told that 16 what this policy means is -- and if you don't know, 17 just tell me. Have officers been told at roll call of 18 what the policy means is that there's no more six foot 19 exception, you have to wear a mask at all times when 20 you're in housing areas, except if you're eating or 21 drinking or you have a medical exception? 22 A. I was not at roll call, so I don't know what was 23 exactly said, but the directive was supposed to be 24 shared with the staff. 25 Q. Do you know when the City developed this</p>	<p style="text-align: right;">Page 32</p> <p>1 longer in operation, correct? 2 A. Yes. 3 Q. So what was the department doing to ensure that 4 officers and staff are in fact wearing masks at all 5 times except with the food, drink, and medically 6 tolerant exception? 7 A. So Compliance and Safety Center was just one of 8 many things that are done to have staff wear their 9 masks. We have a communication program. We have lots 10 of posters. Every supervisor and manager is required 11 to ensure that staff are wearing masks, when they're -- 12 when they see that they're not. So the Compliance and 13 Safety Center was not the only way that we enforced the 14 policy. 15 Q. Can you list all the other ways that you are 16 currently enforcing the policy? 17 A. It's enforced by all supervisors and managers 18 when they're in areas to tell the staff if they're not 19 wearing a mask to put the mask on. If staff blatantly 20 refused to put on a mask then disciplinary action may 21 be taken. 22 Q. Are you aware of disciplinary action being taken 23 against any officer or staff member since this 24 directive was issued? 25 A. I don't know.</p>
<p style="text-align: right;">Page 31</p> <p>1 directive? And what was behind it? 2 A. I wrote the directive after receiving the DCAS 3 guidance during the return to office process. 4 Q. Can you describe for us what that guidance was, 5 please? 6 A. The guidance is verbatim what's in this 7 directive, as far as the language. 8 Q. So the guidance came from DCAS? 9 A. Yes. 10 Q. All right. Does DCAS have a document they issued 11 on return to work? 12 A. Yes. 13 MR. KEENAN: Okay. And we might want to 14 get a copy of that, David and Chuck. 15 BY MR. KEENAN: 16 Q. The return to work process was the process of 17 city employees coming back to the office pursuant to 18 the Mayor's directive to do so a few weeks ago, 19 correct? 20 A. Yes. 21 Q. Is this the policy that applies to all city 22 employees regardless of department? 23 A. Yes. 24 Q. Okay. This was implemented in early May. And by 25 that time, the compliance at the safety center was no</p>	<p style="text-align: right;">Page 33</p> <p>1 Q. Who would know? Would that be Chief Scott or 2 somebody else? 3 A. Chief Scott, I believe. 4 (Exhibit Number 55 was marked for identification.) 5 BY MR. KEENAN: 6 Q. Okay. Next, I'm going to show you, Department 7 Commissioner Feeney, a document that has been marked 8 prior, in a prior deposition as Exhibit 55. Deputy 9 Commissioner Feeney, are you able to see what we've 10 marked as Exhibit 55. It's an email from Bobby Cohen to 11 a group of people dated March 31, 2021. 12 A. Yes. 13 Q. And it says, "Thank you, Bennett, for supporting 14 our tour today. I would like to contribute the following 15 observations. First point, mask wearing by correctional 16 the staff at all levels was extremely inconsistent, 17 disturbingly so." Did I read that correctly? 18 A. Yes. 19 Q. Have you ever scene this email before? 20 A. No. 21 Q. You know who Dr. Bobby Cohen is, correct? 22 A. Yes. 23 Q. And he's a member of the Board of Correction, 24 correct? 25 A. Yes.</p>

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<p>1 Q. Were you aware of this observation by Dr. Cohen 2 about mask wearing by correctional staff being extremely 3 and disturbingly inconsistent in his observation? 4 A. No, I've not seen this email before. 5 Q. Have you been made aware that a board member made 6 this observation on or about March 31 of this year? 7 A. I don't think so. 8 MR. THAYER: Can we take brief pause just 9 so I can turn on some lights? 10 MR. KEENAN: Sure. 11 MR. THAYER: Thanks. 12 MR. KEENAN: Okay. Great. 13 (Exhibit Number 65 was marked for identification.) 14 BY MR. KEENAN: 15 Q. Deputy Commissioner Feeney, I am now showing you 16 on the screen share what has been previously marked as 17 Deposition Exhibit 65. It's letter to Mayor Blasio to 18 December 24, 2020 composed or sent by Jennifer Jones 19 Austin and Jackie Sherman who are members of the Board of 20 Correction and/or the prison death review board. Have 21 you ever seen this document? 22 A. No. 23 Q. One of the things that this document mentions is 24 concerns about the increased population making it 25 difficult to maintain and actually impossible to maintain</p>	<p>1 Q. Can you tell me all the components of the current 2 plan for continuing to combat the spread of COVID 19 3 and combat the -- 4 A. Okay. Our positivity rate has been less than 5 half of the community rate, and right now is under one. 6 So it's clear that our plan is acceptable. Our plan is 7 personal protective equipment enhanced sanitation, 8 certainly social distancing, education to the staff and 9 the incarcerated individuals on how to protect 10 themselves. 11 We've done a very large communications program to 12 get COVID information out to the staff and the 13 incarcerated individuals. We've printed well over 14 10,000 posters. We've implemented multiple three tiers 15 of audits to ensure that we're complying with COVID 16 mandates. 17 Q. You said that -- you may have mentioned in your 18 positivity rate. Where is this number derived from? 19 A. The incarcerated individual positivity rate. 20 Q. What tests have been performed and when and on 21 which group of incarcerated people? 22 A. You'd have to ask DHS that question. I don't 23 know the answer. 24 Q. Okay. 25 A. We also offer vaccines and we have COVID testing</p>
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<p>1 six feet of social distance inside of dorms. Are you 2 aware of concerns being raised about the lack of social 3 distancing in dorms, now that the population has 4 reached its pre-pandemic levels in many instances? 5 A. Yes, I believe the board of corrections state 6 that. 7 Q. And you would agree with me that the population 8 inside Rikers and the Vernon C. Bain Center is now at 9 or in some facilities nearly at its pre-pandemic 10 levels, correct? 11 A. Yes. 12 Q. All right. In pre-pandemic times, social 13 distancing was not a concern, of course, right, because 14 there was no pandemic? 15 A. True. 16 Q. Would you acknowledge that six feet of social 17 distancing is not going on inside all housing units in 18 the department at this time? 19 A. Yes. 20 Q. Do you find that concerning? 21 A. Again, I think social distancing is one of many 22 things that are in place to prevent the spread of 23 disease. So I think it's one part of our plan, but our 24 plan has many facets, so I'm not overly concerned that 25 we don't have six feet of separation in every location.</p>	<p>1 protocols. 2 Q. What are the COVID testing protocols? 3 A. So staff can go any time to GMDC and get tested. 4 And as necessary, CHS does the testing of the 5 incarcerated individuals. 6 Q. You still do not -- 7 A. And also implemented a different housing tier of 8 asymptomatic exposed individuals, and we increased our 9 new admission housing to over two weeks. 10 Q. Tell me what you mean by increased new admission 11 housing to over two weeks. 12 A. Prior to COVID, individuals who were new in our 13 facilities would remain in new admission housing for 14 approximately 72 hours while their TB tests were read. 15 And then, they would be placed in general population 16 housing areas. 17 Now that new admission period is two weeks. And 18 individuals -- or individuals have, I believe it's two 19 negative COVID tests before they're moved into general 20 population housing, so they won't be mixed with 21 incarcerated individuals who have been in our system. 22 If a person is symptomatic and is removed from a 23 housing area, that housing area now goes under 24 quarantine period of approximately 14 days until 25 medical decides that the quarantine can be lifted. So</p>

<p style="text-align: right;">Page 38</p> <p>1 we are not rehousing those individuals in other housing 2 areas during what could be an incubation period. 3 Q. I want to go back to the directive that -- from 4 May 5 of 2021 -- 5 A. March 4th directive. 6 Q. Oh, okay, you're seeing -- what you're seeing is 7 the March 4th directive right now? 8 A. Yes. 9 Q. Okay. Yes, you are. I'm seeing something 10 different on my screen than you're seeing on yours. I 11 need to share the document differently. 12 Okay. Now do you see the May 5 directive? 13 A. Yes. 14 Q. Some folks might say, "Having this type of 15 directive that you now have in place dated May 5 seems 16 pretty common sense. How come it didn't happen a long 17 time ago?" 18 So can you answer that question? How can this 19 wasn't the policy a long time ago? 20 A. The department's been following the policies and 21 the recommendations of the public health officials, so 22 as the guidance changes from the CDC or the City health 23 at the present time, our policy changes. This is the 24 most recent guidance that we received and that's the 25 policy that's been placed.</p>	<p style="text-align: right;">Page 40</p> <p>1 sanitation supplies, materials. Are you aware of 2 alcohol pads such as prep pads or, you know, sanitary 3 alcohol wipes being distributed to detainees at any 4 facility so that they can clean phones or other high- 5 touch surfaces? 6 A. No. 7 Q. Okay. We've heard some testimony during the 8 course of this case that there are some staff or maybe 9 medical staff who will give alcohol prep pads or things 10 like that to detainees, especially in the phone areas, 11 and I think maybe particularly in the Vernon C. Bain 12 Center. You've not heard anything about that? 13 A. No, and that would be a security concern if staff 14 were doing that. 15 Q. Okay. Let me ask you this, during the course of 16 the pandemic, have you -- are you aware -- and I'll ask 17 you in your capacity as the department. And every 18 question here is in your capacity as the department, 19 unless specified otherwise. 20 Are you aware of any security problems that have 21 arisen as a result of distribution of wipes such as 22 alcohol wipes? 23 A. I do not know that it was being distributed, so 24 if you're talking about wipes the size of sanitizing 25 wipes, yes, I am aware of problems we've had</p>
<p style="text-align: right;">Page 39</p> <p>1 Q. Hasn't it been guidance from public health 2 officials for a long time now that people should wear 3 masks at all times when indoors? I guess, unless, you 4 know, everybody's fully vaccinated? 5 A. Yes, unless you follow the six foot distance -- 6 if you were beyond six feet of distance, you didn't 7 have to wear the mask. 8 Q. Even in indoors? 9 A. Yeah, I believe that is the guidance at the time. 10 Q. At what time? 11 A. When our policy said that. 12 Q. Okay. Would you agree with me that the 13 department has a duty to continually monitor the 14 guidance coming from public health officials and update 15 policies promptly when that guidance changes? 16 A. Yes. 17 Q. Okay. Throughout the pandemic, correct? 18 A. Yes. 19 MR. KEENAN: If you don't mind, if we 20 take about a five-minute quick break here? 21 THE WITNESS: Sure. 22 (A break was taken from 3:49 p.m. until 3:58 p.m.) 23 BY MR. KEENAN: 24 Q. Deputy Commissioner Feeney, we are back on the 25 record after a short break. I want to ask you about</p>	<p style="text-align: right;">Page 41</p> <p>1 distributing those previously. 2 Q. Well, and I know we talked in your prior 3 deposition about a situation at a holding unit, I think 4 in Bronx criminal court. And is that the instance 5 you're referencing? 6 A. Yes. 7 Q. Okay. I want to ask about -- that was prior to 8 the pandemic, correct? 9 A. Yes. 10 Q. Okay. So I'm asking now about during the 11 COVID 19 pandemic, to date, from the beginning of 12 pandemic to date, are you aware of any problems that 13 have arisen whether to safety or to the functioning of 14 plumbing or to anything else, any other problems that 15 have risen inside the department as a result of 16 detainees having sanitary wipes of any kind? 17 A. To my knowledge, the detainees have not had 18 sanitary wipes, so other than in the televisiting 19 areas. 20 Q. Okay. So let's talk about that. Detainees 21 having sanitary wipes in televisiting areas. What is 22 your understanding about the availability of wipes to 23 detainees in televisiting areas? 24 A. They wipe down the chairs and the table where 25 their visits are. Most jails use the Virex and a</p>

<p style="text-align: right;">Page 42</p> <p>1 sponge. I believe it's VCBC uses the sanitizing wipes 2 and they're collected in the garbage at the officer's 3 station. 4 Q. Okay. How come the Vernon C. Bain Center has 5 used sanitary wipes, whereas other units have used the 6 Virex with buckets? 7 A. They have fewer -- I believe they had fewer 8 televisiting sites, and it takes longer for the Virex 9 to dry than for the sanitizing wipes to dry. 10 Q. Okay. You're not aware of any security issues or 11 any other issues that have arisen as a result of 12 detainees having access to sanitary wipes at the 13 televisiting area at Vernon C. Bain Center, are you? 14 A. No, not in that limited area because they're 15 collected right there when they're distributed. 16 Q. And I understand your opinion as to why that is, 17 but my question is narrower. You're not aware of any 18 safety security or any other problems that have 19 resulted from the distribution of those wipes at Vernon 20 C. Bain Center, correct? 21 A. I said no, I'm not, but it's for the reason that 22 they're collected right there. They're not being taken 23 back to a cell where they're going to be then flushed 24 down the toilet. And a correctional officer is unable 25 to follow somebody into a cell to take the wipes back</p>	<p style="text-align: right;">Page 44</p> <p>1 you know, has -- watches it be thrown in a trash can or 2 something like that? 3 A. There's absolutely no reason to do that because 4 we have an EPA approved disinfectant in Virex. We're 5 following CDC guidelines in a way that is not causing 6 an additional risk to other inmates. 7 When you're doing health and safety, you don't 8 create another risk by trying to mitigate one risk. So 9 if we allow the inmates to flush the sanitizing wipes 10 and cause sewage backups, now we're exposing people to 11 blood born pathogens, HIV, hepatitis. It doesn't make 12 any sense. 13 Q. That wasn't my question. My question was, why 14 not use the wipes at other facilities in exactly the 15 way that you're using them at the Vernon C. Bain Center 16 where they're collected immediately or thrown away 17 immediately televisiting center? 18 A. Because there's absolutely to reason to do so, 19 because we have an EPA approved disinfectant that is 20 effective against COVID. 21 Q. Why are you doing it at the Vernon C. Bain Center 22 then? 23 A. I didn't know they were doing it at the Vernon C. 24 Bain Center. That was something that the warden had 25 implemented due to time constraints.</p>
<p style="text-align: right;">Page 43</p> <p>1 every time. 2 Q. Deputy Commissioner Feeney, has any thought been 3 given to expanding the availability of those wipes to 4 other units of the department? 5 A. No. 6 Q. Why not? 7 A. For reasons I've testified to before. 8 Q. I'm seems to be going pretty well at Vernon C. 9 Bain Center. Why not expand the program? 10 A. Because you're, in a way, comparing apples and 11 oranges. 12 Q. Tell me how. 13 A. So if you walk into the visit house where the 14 televisit machines are set up, it's a big open space 15 with the correction officer and inmate. The correction 16 officer hands the inmate the wipes. The inmate wipes 17 down the areas. The officer collects it back. 18 We are having issues with people flushing masks 19 and other items that are causing plumbing backups, and 20 it would just be that much worse if we gave them 21 sanitizing wipes. 22 Q. Well, what if you were to implement the exact 23 same process at other visiting televisiting areas as 24 you have at the Vernon C. Bain Center where a 25 correction officer immediately collects the wipe or,</p>	<p style="text-align: right;">Page 45</p> <p>1 Q. You said you didn't know, but you just testified 2 about it. So when did you learn about it? 3 A. Couple of weeks ago. 4 Q. Okay. How did you learn about it? 5 A. I don't remember how I found out about it. 6 Q. Who is the warden at the Vernon C. Bain Center? 7 A. At that time it was Warden Mills, but she's since 8 been transferred. I believe Deputy Warden White is 9 commanding officer right now. 10 Q. Okay. Warden Mills, where was she transferred 11 to? 12 A. AMKC. 13 Q. Okay. Why was that transfer done? 14 A. Because Warden Hallit retired. 15 Q. Okay. Warden Hallit was the warden at AMKC? 16 A. Yes. 17 Q. Okay. And has the new commanding officer in 18 charge of the Vernon C. Bain Center continued the 19 practice with wipes and the televisit area that existed 20 previously under Warden Mills? 21 A. I don't know. I haven't asked her. 22 Q. Okay. Did you ever have a discussion with Warden 23 Mills or her successor about the wipes in the televisit 24 area? 25 A. Yes.</p>

<p>Page 46</p> <p>1 Q. Okay. And tell us the content of that 2 discussion, please. 3 A. I asked her if she was utilizing them. She said 4 yes. I told her that was not our policy. She 5 explained that there was a time constraint, and we 6 discussed ensuring that they collected the wipes 7 immediately after use. I still don't think it's a good 8 idea, but we're making it work. 9 Q. Okay. And you're not aware of any problems that 10 have arisen at Vernon C. Bain, is that correct? 11 A. No, not with the limited use in the televisit 12 area. 13 Q. Okay. Would you acknowledge that, so the problem 14 that Warden Mills was expressing to you was -- it was 15 Warden Mills you had the conversation with, correct? 16 A. Yes. 17 Q. The problem that Warden Mills was expressing to 18 you was basically that there was not enough time 19 between each visit for -- in each visit slot for a 20 detainee to be able to use a bucket of Virex, spread 21 the Virex on the surfaces, and let it dry for the, 22 what, 10 to 12 minutes it takes to dry before 23 proceeding with the visit? Is that the basic concern? 24 A. Yes. 25 Q. Okay. Deputy Commissioner Feeney, doesn't that</p>	<p>Page 48</p> <p>1 A. There's a time where the individual ends their 2 televisit, they're taken out, the area is sanitized, 3 then a new individual is brought in. 4 Q. Who's supposed to be doing the sanitizing? 5 A. There is a worker. 6 Q. Is that a detainee or a civilian worker or 7 somebody else? 8 A. A detainee that's been trained -- well, it could 9 be a sentenced worker, as well. It's an incarcerated 10 individual. 11 Q. Okay. And is there a full-time cleaning worker 12 detailed with cleaning off the surface after every 13 visit in every unit of Rikers? 14 A. What are you talking about? 15 Q. Let's take one for example. NIC. 16 A. Are you talking about the visit house? Are you 17 talking about housing areas? What area are you talking 18 about? 19 Q. The televisit area. 20 A. There should be a worker assigned to the 21 televisit area, yes. 22 Q. Who's supposed to clean off say the phone after 23 every single visit? 24 A. Yes. 25 Q. Okay. That's not happening, is it?</p>
<p>Page 47</p> <p>1 problem exist at pretty much every part of Rikers? 2 A. No. 3 Q. Doesn't it exist at other part of Rikers besides 4 just the Vernon C. Bain Center? 5 A. Not that I'm told, no. 6 Q. I mean, we've scheduled some of these televisits 7 with detainees and they seem to stack them up pretty 8 quick. Like, you know, there might only be a short 9 time from one person exiting to another entering. 10 Do you know if there -- do you know if they're 11 staggering all the visits so there's at least 15, 20 12 minutes of absence in each booth? Or do you not know 13 whether they're doing that at Rikers? 14 A. The visits are supposed to be scheduled to allow 15 for the sanitation. I haven't looked at the actual 16 schedule, but nobody's called me to tell me there was 17 an issue. 18 Q. How much time is there supposed to be between 19 each visit? 20 A. The surface has to remain sanitized for ten 21 minutes, so sometime thereafter ten minutes. 22 Q. So your expectation is that, you know, say there 23 would be an empty time slot before the new time slot 24 would be begin for, is that the way it's supposed to 25 be?</p>	<p>Page 49</p> <p>1 A. I believe we have -- we have trained workers. We 2 have payroll. There should be workers. 3 Q. I mean, I guess speaking for myself, I've had a 4 lot of televisits with the Plaintiffs who happen to be 5 in NIC. And they'll use the same booth for them. It's 6 usually Booth 4, I think. And they'll come in one 7 after the other. And I can't say I've ever seen 8 anybody cleaning off anything when we're between 9 visits. Would that surprise you? 10 A. Yes. 11 Q. Your impression would be that what I just related 12 to you, that that would be a total aberration? 13 A. It would be unusual, yes. 14 Q. Okay. All right. If the testimony we get in 15 this case is that actually that's not unusual and it's 16 fairly routine that booths are not being sanitized 17 between visits, is that something that you think prompt 18 action would need to be taken on to ensure that there 19 is sanitation between each visit? 20 A. Yes. 21 Q. Okay. How would we be able to ascertain whether 22 sanitation actually is occurring between each visit in 23 a televisit areas? 24 A. I'll have an audit done. 25 Q. Okay. How do you do that?</p>

<p>Page 50</p> <p>1 A. A couple ways. We generally do them in person, 2 but we could also do them by video. 3 Q. How would an in-person audit work? 4 A. Excuse me. The staff member remain in the visit 5 area for a period of time and observe what was going 6 on. 7 Q. Okay. And how would a video audit work? 8 A. You would watch the video and see what's going 9 on. 10 Q. Is there video that covers an entire televisit 11 area so that you can see what's going on in each booth? 12 Or would you have to pipe into the video that would be 13 the same video that, say, I would watch and having an 14 attorney/client visit with somebody? 15 A. I don't think piping into the video your work -- 16 you were on is one thing we -- number one, we don't do 17 that. But number two, they are -- they should be -- 18 well, it's something we don't do. So we would do it by 19 looking at the Genetec video. 20 Q. Okay. Looking at the Genetec video being kind of 21 the general security footage of that area, correct? 22 A. Right. 23 Q. Okay. Is that something you're going to do and 24 are willing to do? 25 A. Yes.</p>	<p>Page 52</p> <p>1 asbestos unit is also part of the Environment the 2 Health Unit. 3 Q. Which unit is that that's also part of it, you 4 said? 5 A. The asbestos unit. 6 Q. Asbestos unit. What is the asbestos unit? 7 A. They serve as project managers for any asbestos 8 work that's done in the department. So by law, any 9 asbestos work has to be done in like a three-pronged 10 way. There's a project manager, which is what our 11 unit -- the function they serve. There's one vendor 12 who does the abatement, and there's another vendor that 13 does the testing and sampling. 14 Q. Okay. Are there soap dispensers inside Rikers 15 and Vernon C. Bain Center that detainees have access 16 to? 17 A. What kind of soap are you talking about? 18 Q. Liquid -- liquid hand soap? 19 A. No, they have bar soap. 20 Q. Okay. So your testimony is there are no liquid 21 soap dispensers anywhere in Rikers or Vernon C. Bain 22 Center for hand soap for inmates? 23 A. Not for incarcerated individuals, no. 24 Q. Deputy Commissioner Feeney, I want to ask you 25 about ventilation. First off, do you know anything</p>
<p>Page 51</p> <p>1 Q. Okay. Have you kept -- have you received any 2 reports of soap or hot water not being available in any 3 housing areas during the pandemic? 4 A. We may have gotten complaints about hot water not 5 being in a shower. But there aren't -- there isn't hot 6 water in every sink. Some water is mixed. So it's not 7 separate hot and cold. 8 Q. Do you know if there's been any recording of 9 complaints regarding inavailability of soap in housing 10 units? 11 A. Any complaints that we get are investigated by 12 the Environmental Health Unit. And those are all 13 documented in the -- by the Office of Compliance, the 14 Office of -- OCGS, Office of Constituent and Grievance 15 Services. 16 Q. What is the Environmental Health Unit? 17 A. The Environmental Health Unit is, I guess, a sort 18 after mini health department for DOC. It's staffed 19 with public health sanitarians. We have a compliance 20 unit that oversees the hazardous waste and petroleum 21 bulk storage program. 22 We have the exterminators, the integrated pest 23 management program. The public health sanitarians do 24 inspections of every area of every facility every 25 month, and some areas are inspected weekly. And the</p>	<p>Page 53</p> <p>1 about ventilation inside Rikers and Vernon C. Bain 2 Center? 3 A. I know some about it, yes. 4 Q. Okay. I think we touched on this a briefly in 5 your deposition last year. Since then, has anything 6 been done to change out ventilation or change the way 7 ventilation is done at Rikers, including the Vernon C. 8 Bain Center? 9 A. We've installed MERV 13s on the ventilation units 10 in the jails. There has been some enhancements in some 11 time of the ventilation systems, but I couldn't explain 12 to you exactly what that was. The ventilation is not 13 recirculated in the jails. It's direct exhaust. 14 Q. Is that in every jail, it's direct exhaust and 15 not recirculation? 16 A. I believe so yes. 17 Q. Okay. Is that a change in policy or practice? 18 A. During the winter months, you would typically 19 recirculate air to maintain heat, but we have been not 20 recirculating air during COVID. 21 Q. How about during summer months? We're already 22 getting into some very warm weather. Is it still all 23 fresh air, or is recirculation planned while air 24 conditioning is running during the summer months? 25 A. The air conditioning is running. I believe it's</p>

<p style="text-align: right;">Page 54</p> <p>1 still all outside air.</p> <p>2 Q. Is it -- who would know for sure?</p> <p>3 A. Alex Mahoney.</p> <p>4 Q. Whose Alex Mahoney?</p> <p>5 A. He's the executive director for facility</p> <p>6 maintenance and repair division.</p> <p>7 Q. So far as you know, is the plan to continue using</p> <p>8 only outside air?</p> <p>9 A. As far as I know, yes.</p> <p>10 Q. The MERV 13 filters, are those in place in all</p> <p>11 HVAC units in all jails?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Deputy Commissioner Feeney, I've just</p> <p>14 shown you on the screen share what's been previously</p> <p>15 marked as Exhibit 68 in this case. It is a letter to</p> <p>16 Commissioner Brann, as well as several other officials</p> <p>17 written by Dr. Steven Safyer, dated January 29, 2021.</p> <p>18 Have you ever seen this document before?</p> <p>19 A. No.</p> <p>20 Q. Have you ever encountered the statistic that at</p> <p>21 the beginning part of the year, January of this year</p> <p>22 that there was an increase in positivity rates of COVID</p> <p>23 of 136 percent among people in custody, and nearly</p> <p>24 eight percent among department staff, and 12 percent of</p> <p>25 correctional health services staff?</p>	<p style="text-align: right;">Page 56</p> <p>1 Q. Okay. It's been superseded, by the May 5 policy</p> <p>2 that we just talked about?</p> <p>3 A. Yes.</p> <p>4 Q. I'm now showing you on the screen share</p> <p>5 Department Commissioner Feeney what has been parked</p> <p>6 marked as Exhibit 35 previously. This is a February</p> <p>7 19, 2021 version of the CEC's interim guidance on</p> <p>8 management of Corona Virus disease 2019 in correctional</p> <p>9 and detention facilities. I want ask you, are you</p> <p>10 generally familiar with the fact that the CDC issues</p> <p>11 interim guidance on COVID 19 and correctional detention</p> <p>12 facilities?</p> <p>13 A. Yes.</p> <p>14 Q. Do you regularly monitor the CDC's website to</p> <p>15 review any updates to that guidance?</p> <p>16 A. Yes.</p> <p>17 Q. Do you believe that the department needs to</p> <p>18 follow the CDC's guidance?</p> <p>19 A. Yes.</p> <p>20 Q. Why is that important?</p> <p>21 A. It's important for us to follow what the public</p> <p>22 health officials are recommending. So we use the CDC</p> <p>23 and the New York City Health Department Public health</p> <p>24 officials' guidance.</p> <p>25 Q. Deputy Commissioner Feeney, I'm just showing you</p>
<p style="text-align: right;">Page 55</p> <p>1 A. I don't know if those percentages are accurate. I</p> <p>2 don't know those percentages.</p> <p>3 Q. Okay. Have you heard that there was an increase</p> <p>4 in positivity rates in the early part of this year?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Has the department made any attempt to</p> <p>7 assess why that is?</p> <p>8 A. I believe the department's numbers went up as the</p> <p>9 community rates went up.</p> <p>10 (Exhibit Number 34 was marked for identification.)</p> <p>11 BY MR. KEENAN:</p> <p>12 Q. Deputy Commissioner Feeney, are you able to see</p> <p>13 this directive 2269 R-A right now? Are you still seeing</p> <p>14 Dr. Safyer's letter?</p> <p>15 A. No, I see the directive.</p> <p>16 Q. All right. I want to make sure the screen share</p> <p>17 is working the right way. I'm showing you what has been</p> <p>18 previously marked as Exhibit 34. Do you recognize this</p> <p>19 document classification number 2269 R-A dated March 24,</p> <p>20 2021?</p> <p>21 A. Yes.</p> <p>22 Q. Is this policy no longer in effect, or is it in</p> <p>23 some parts in still effect?</p> <p>24 A. That policy is no longer in effect. It's been</p> <p>25 superseded.</p>	<p style="text-align: right;">Page 57</p> <p>1 a teletype order from Chief Jennings dated March 12,</p> <p>2 2021. It's teletype order number HQ00624-0. Is that</p> <p>3 what you're seeing on the screen here?</p> <p>4 A. Yes.</p> <p>5 Q. And can you summarize for us what this document</p> <p>6 is, please?</p> <p>7 A. The document is a teletype that talks about</p> <p>8 issuing cloth masks to incarcerated individuals so that</p> <p>9 they would be able to double mask if they so desired</p> <p>10 because they already had the surgical masks.</p> <p>11 Q. Okay. And you would agree with me that a cloth</p> <p>12 mask on its own is not adequate PPE, correct?</p> <p>13 A. Well, not necessarily. It's one of the guidances</p> <p>14 that were originally given, was to wear a cloth mask if a</p> <p>15 hospital grade mask was not available.</p> <p>16 (Exhibit Number 130 was marked for identification.)</p> <p>17 BY MR. KEENAN:</p> <p>18 Q. And we're -- just for the record, we're going to</p> <p>19 mark this teletype order HQ624 as Exhibit 130. Let's try</p> <p>20 to keep track of these as we pull them up. And it is</p> <p>21 Bates stamped NYC 336, NYC 338.</p> <p>22 Deputy Commissioner Feeney, let's go back to the</p> <p>23 CDC's interim guidance. Do you see that now again on</p> <p>24 your screen?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 58</p> <p>1 Q. Okay. And again, it is Exhibit 35, going to 2 bring us to page 27. See if I can get it -- easier to 3 use format. Not quite. Just a second. 4 Okay. We are on what is page 27 of Exhibit 35. 5 Do you see this Table 1 regarding recommended personal 6 protective equipment, PPE for incarcerated and detained 7 persons and staff? 8 A. Yes. 9 Q. All right. Do you see the language that says, 10 "Use cloth masks as source control. Note, cloth face 11 coverings are not PPE and may not protect the wearer"? 12 Do you see that? 13 A. Yes, I do. 14 Q. Okay. 15 A. The Department is provided surgical masks to 16 incarcerated individuals since March of last year. 17 Q. Okay. 18 A. The cloth marks were only issued this year after 19 the City guidance was to wear two masks. 20 Q. Okay. All right. 21 A. The cloth mask was to be worn above the surgical 22 mask if the incarcerated individual chose to do so, 23 but. But they have had surgical masks since March of 24 last year. 25 Q. And does that continue to be the case, that</p>	<p style="text-align: right;">Page 60</p> <p>1 2020 and January of 2021? 2 A. I don't know what observations you're talking 3 about. 4 Q. Okay. 5 A. Whose observations are they? 6 Q. Well, I don't know exactly. But we spoke with 7 Chief Scott about them. I'll just bring them up very 8 briefly. 9 (Exhibit Number 110 was marked for identification.) 10 BY MR. KEENAN: 11 Q. Deputy Commissioner Feeney, do you recognize this 12 spreadsheet that's been previously marked as Exhibit 110? 13 A. No. 14 Q. Okay. You've never seen any of this spreadsheet 15 or any of its observations? 16 A. No. 17 Q. Okay. There's an observation in here saying, 18 "Particularly disturbing to observe an officer not 19 practicing or enforcing social distancing, which is 20 virtually impossible, but instead is laughing and 21 touching detainees without any PPE." Do you see this? 22 A. I can only see part of it. 23 Q. Okay. Can you see it now? 24 A. No, your faces are in the way. 25 Q. Oh. Here, about how about that? Almost.</p>
<p style="text-align: right;">Page 59</p> <p>1 surgical masks are being issued on a daily basis to 2 detainees? 3 A. We maintain -- we deliver surgical masks at least 4 twice a week to the housing areas, and they can be 5 replaced any time a detainee asks for one. 6 Q. Have there been any reports of shortages or 7 unavailability of masks? 8 A. On occasion, there may be a time when a 9 particular housing area runs out of masks. But the 10 facility resupplies them, which is why we have the 11 captains auditing their areas three times a tour. 12 Q. Have there been any recent reports or shortages, 13 say, in the last three months? 14 A. No long-term shortages. There might have been a 15 time where, as I said, the masks were used and the 16 facility had to replace them. 17 Q. Do you know how long it took to replace them? 18 A. It's expected to be replaced within the tour. At 19 the end of each tour, a facility -- the facilities are 20 to submit an accounting of how many masks they have on 21 hand. 22 Q. Okay. Deputy Commissioner Feeney, now we've 23 marked some documents previously regarding mask 24 observations of some video footage at AMKC. Are you 25 aware of those observations being done in December of</p>	<p style="text-align: right;">Page 61</p> <p>1 Are you able to see it now? 2 A. Yes. 3 Q. Okay. Do you find that a disturbing observation? 4 A. I don't know what the observation is. 5 Q. It's an observation -- 6 A. I see it. 7 Q. It's an observation of video footage inside a 8 housing unit at AMKC, whether officers are wearing 9 masks properly. 10 A. I don't see where it says, "Officers not wearing 11 masks." It says the officer is touching the detainee 12 without PPE. So if you're worried about touching 13 somebody, it would be a glove, not a mask. 14 Q. Okay. Here is where it talks about it. It's -- 15 there's a key up here saying, "Staff observed in 16 housing area. Staff wearing masks correctly. People 17 observed in housing area. People in custody wearing 18 masks correctly." Do you see that? 19 A. Yes. 20 Q. Okay. So now with that legend, we can see here 21 in Column G, one officer in the housing area, zero 22 officers wearing masks. And yes, there are detainees 23 in the housing area, none were wearing masks, or at 24 least wearing properly. Does that give you some 25 context as to what this is about?</p>

<p>Page 62</p> <p>1 A. Yes.</p> <p>2 Q. Okay. With that in mind, do you find it a</p> <p>3 disturbing observation that an officer was observed not</p> <p>4 practicing or enforcing social distancing, but instead</p> <p>5 laughing and touching detainees without any PPE?</p> <p>6 A. Well, it's hard to say because I didn't see the</p> <p>7 video. And say if an officer is pat frisking an</p> <p>8 individual, they cannot socially distance during that</p> <p>9 pat. So without seeing the video, I can't comment on the</p> <p>10 comment.</p> <p>11 (Exhibit Number 111 was marked for identification.)</p> <p>12 BY MR. KEENAN:</p> <p>13 Q. Okay. Next going to show you Exhibit 111, which</p> <p>14 has been previously marked. These are observations</p> <p>15 inside AMKC, housing area Three Main on December 9, 2020.</p> <p>16 You'll see a similar legend here. "Staff observed in</p> <p>17 housing area. Staff wearing mask correctly." And total</p> <p>18 in the observation was 10 officers observed and only four</p> <p>19 wearing masks correctly. Is that a figure you find</p> <p>20 unsettling?</p> <p>21 A. Again, without seeing the video, I don't know if</p> <p>22 the officer was six feet away from the incarcerated</p> <p>23 individuals at the time. I don't know what tour it</p> <p>24 occurred. Well, I guess I do know what tour it occurred</p> <p>25 on. I don't -- I can't comment on this. I've never seen</p>	<p>Page 64</p> <p>1 sanitation supplies are available. So there's an awful</p> <p>2 lot of monitoring going on.</p> <p>3 Q. Okay. We've heard some report about omitting</p> <p>4 mildew remover being available in some housing areas.</p> <p>5 Is mildew remover a distinct product from Virex?</p> <p>6 A. Yes, it is. And in fact, for a several months in</p> <p>7 the last year, we didn't have the mold and mildew</p> <p>8 cleaner available, so that would be an unusual finding.</p> <p>9 Q. And I -- do you -- are you able to identify</p> <p>10 during what exact time frame there was zero mold or</p> <p>11 mildew cleaner present in hosing areas?</p> <p>12 A. Not off the top of my head, no.</p> <p>13 MR. KEENAN: Folks, why don't we take a</p> <p>14 quick break. I'm going to check with my colleague. I</p> <p>15 think, as I kind of predicted in the email last week, I</p> <p>16 think we've been able to make a lot of progress in this</p> <p>17 two-hour block or so. If I only had about 10 or 15</p> <p>18 minutes left, I might want to ask us to push on, but I</p> <p>19 know I've definitely got more than that.</p> <p>20 So why don't we think about what it</p> <p>21 would look like to get another block of time. I'm</p> <p>22 going to check with my colleague. I'll be back in a</p> <p>23 few minutes, okay?</p> <p>24 (A break was taken from 4:41 p.m. until 4:46 p.m.)</p> <p>25 BY MR. KEENAN:</p>
<p>Page 63</p> <p>1 the video.</p> <p>2 Q. Okay.</p> <p>3 A. So if the inmates are in their cells, it's</p> <p>4 between two and three o'clock and the officer is on the</p> <p>5 floor, at that time they weren't required to wear their</p> <p>6 masks.</p> <p>7 Q. But now they are, correct?</p> <p>8 A. Now they should be, yes.</p> <p>9 Q. Okay. The Board of Correction recommended that</p> <p>10 the department implement a new auditing system for</p> <p>11 tracking the availability of sanitation supplies,</p> <p>12 correct?</p> <p>13 A. I have not seen that.</p> <p>14 Q. Okay.</p> <p>15 A. We were already auditing on a three-tiered</p> <p>16 approach, as it is.</p> <p>17 Q. Okay.</p> <p>18 A. The captains are auditing three times a tour, so</p> <p>19 that's nine times a day. My staff and the bureau chief</p> <p>20 of facility operations are going out every day. And</p> <p>21 when the environmental health supervisors are out</p> <p>22 touring, they're also observing.</p> <p>23 We also have public health sanitarians that</p> <p>24 inspect every area of every jail at least once a month.</p> <p>25 And part of that inspection is to determine if</p>	<p>Page 65</p> <p>1 Q. I'm about to show you a number of documents,</p> <p>2 Deputy Commissioner Feeney, that are COVID 19 daily</p> <p>3 surveys. I'm showing you what's been marked NYC 405</p> <p>4 through 408. Do you recognize this document?</p> <p>5 THE COURT REPORTER: It's not on the</p> <p>6 screen, sir.</p> <p>7 MR. KEENAN: Oh, it's not? Okay.</p> <p>8 BY MR. KEENAN:</p> <p>9 Q. Do you see it now, Deputy Commissioner Feeney?</p> <p>10 A. Yes, I do. This is one of the audits that's</p> <p>11 conducted by my staff where -- well, the bureau chief</p> <p>12 staff does the bureau commands.</p> <p>13 Q. Okay. Are these -- and help me understand, are</p> <p>14 these -- are these the done in every housing area every</p> <p>15 day? Several times a day? Or less frequently? Help</p> <p>16 me understand what type of survey this document is used</p> <p>17 for.</p> <p>18 A. These particular audits are done by the outside</p> <p>19 auditors assigned to my staff or the bureau chief of</p> <p>20 facility operations staff. So they do several housing</p> <p>21 areas and the intake in every jail every day.</p> <p>22 Q. Okay. So this document should be done at</p> <p>23 every -- at every housing area of every jail every day,</p> <p>24 correct?</p> <p>25 A. No, it's done at -- it's an audit. So it's done</p>

<p style="text-align: right;">Page 66</p> <p>1 at several housing areas in each facility every day.</p> <p>2 Q. Okay. All right. Do you know what percentage of</p> <p>3 housing areas?</p> <p>4 A. They usually do between, I guess around four,</p> <p>5 three or four housing areas in the small jails, and a few</p> <p>6 more in the larger jails.</p> <p>7 (Exhibit Number 131 was marked for identification.)</p> <p>8 BY MR. KEENAN:</p> <p>9 Q. And say at GCDC, which is what this document that</p> <p>10 what we're going to call 131 beginning Bates stamp NYC</p> <p>11 405 refers to, at the Vernon C. Bain Center, how many</p> <p>12 housing areas are there at GCDC?</p> <p>13 A. I don't know offhand.</p> <p>14 Q. Do you remember roughly?</p> <p>15 A. No.</p> <p>16 Q. Okay. So you're not able to give us any estimate</p> <p>17 of what percentage of -- typically of housing areas in a</p> <p>18 given jail would be audited every day, right?</p> <p>19 A. No.</p> <p>20 Q. Okay.</p> <p>21 A. 15, 20 percent-ish.</p> <p>22 Q. Okay --</p> <p>23 A. But I where -- I don't know exactly, no.</p> <p>24 Q. All right. There's a question on here, you'll see</p> <p>25 at the top of the first page that says, "Are inmates</p>	<p style="text-align: right;">Page 68</p> <p>1 A. Honestly, I don't know.</p> <p>2 Q. Is that something that you're willing to add in?</p> <p>3 A. I don't have a problem adding it.</p> <p>4 Q. Okay. Will you do that?</p> <p>5 A. As long as I get permission from my boss, yes.</p> <p>6 (Exhibit Number 132 was marked for identification.)</p> <p>7 BY MR. KEENAN:</p> <p>8 Q. Okay. Next I'm going to go to a document that's</p> <p>9 going to be marked 132. This is Bates stamped NYC 381.</p> <p>10 Is it the same thing, simply for a different time frame?</p> <p>11 A. Yes.</p> <p>12 (Exhibit Number 133 was marked for identification.)</p> <p>13 BY MR. KEENAN:</p> <p>14 Q. Okay. Next I'll go to a document stamped 388. It</p> <p>15 will be Exhibit 133 same thing COVID 19 daily survey?</p> <p>16 A. Yes.</p> <p>17 Q. Now, here is -- an interesting thing on this one,</p> <p>18 on Exhibit 133, it will say, "Are any -- are inmates</p> <p>19 wearing masks." And they check yes. And the question is</p> <p>20 "How many?" And it says, "3 out of 46." Do you see</p> <p>21 that?</p> <p>22 A. Yes.</p> <p>23 Q. Not a very encouraging statistic, right?</p> <p>24 A. Well, it's up to the individuals if they want to</p> <p>25 wear the masks or not. There is to mandate for</p>
<p style="text-align: right;">Page 67</p> <p>1 wearing masks?" And it -- it has an option for yes or</p> <p>2 no, and then it says, "How many?" And it has something</p> <p>3 circled out, which I don't know why --</p> <p>4 A. That's the number one.</p> <p>5 Q. Okay. For one inmate?</p> <p>6 A. Yes, one inmate in the intake was wearing a mask</p> <p>7 at the time of the tour.</p> <p>8 Q. Okay. I see. All right.</p> <p>9 MR. THAYER: I just sent a chat message.</p> <p>10 I missed maybe the last question or two.</p> <p>11 MR. KEENAN: Oh, okay.</p> <p>12 MR. THAYER: Yeah, I was just having some</p> <p>13 Internet issues.</p> <p>14 MR. KEENAN: We were just asking about</p> <p>15 the lines of inmates of wearing masks and what they mean.</p> <p>16 MR. THAYER: Okay.</p> <p>17 BY MR. KEENAN:</p> <p>18 Q. Okay. So there's not a line for whether staff are</p> <p>19 wearing masks, correct?</p> <p>20 A. Correct.</p> <p>21 Q. Do you know who designed this form?</p> <p>22 A. I did.</p> <p>23 Q. Okay. How come you didn't put a line in for</p> <p>24 whether staff are wearing masks or officers are wearing</p> <p>25 masks?</p>	<p style="text-align: right;">Page 69</p> <p>1 incarcerated individuals to wear masks when they're in</p> <p>2 their housing areas any more than most people wear a</p> <p>3 mask inside their own house. These are people that</p> <p>4 have been living together for a period of time and</p> <p>5 they're comfortable with each other.</p> <p>6 So we provide them the mask if they would like to</p> <p>7 wear them. We encourage them to wear them. But it's</p> <p>8 not mandated. And even if we wanted to mandate,</p> <p>9 there's no way to enforce it.</p> <p>10 Q. And that I appreciate you expressing that</p> <p>11 perspective. My question was a little different.</p> <p>12 Seeing just three out of 46 people wearing masks, just</p> <p>13 you don't find that encouraging, do you? Or do you?</p> <p>14 A. I don't find a problem with it.</p> <p>15 Q. Okay. All right. A question about the form. We</p> <p>16 see, even though only three out of 46 people are</p> <p>17 wearing masks, the form gets checked yes or circled</p> <p>18 yes. Is the person filling out this form supposed to</p> <p>19 say yes if anybody is observed wearing a mask?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Even if it's -- even if it's only a small</p> <p>22 number out of a total number of people in there?</p> <p>23 A. Yes.</p> <p>24 Q. Did you issue any guidance or instructions on how</p> <p>25 to complete this form?</p>

<p style="text-align: right;">Page 70</p> <p>1 A. Yes.</p> <p>2 Q. Where is that?</p> <p>3 A. We did it verbally with the staff. We trained</p> <p>4 them on how to fill out the form.</p> <p>5 Q. Is it written down anywhere?</p> <p>6 A. No. The questions are pretty self-explanatory.</p> <p>7 Q. I guess the form will speak for itself. Could you</p> <p>8 understand that one might wonder how self-explanatory it</p> <p>9 is if three out of 46 people yields an answer of yes, as</p> <p>10 to whether inmates are wearing masks?</p> <p>11 A. It says, "Are any inmates wearing masks?" "Yes"</p> <p>12 "How many?" "Three." It's not hiding anything. It's</p> <p>13 telling you the exact number of people that are wearing</p> <p>14 masks.</p> <p>15 Q. It doesn't ask how many out of how many, does it?</p> <p>16 A. No.</p> <p>17 Q. Okay. All right. Next we will look at --</p> <p>18 MR. THAYER: Sorry to interrupt again,</p> <p>19 I'm ...</p> <p>20 MR. KEENAN: Yeah, you froze up, David</p> <p>21 shifted.</p> <p>22 Froze up again.</p> <p>23 MR. THAYER: Feel free to -- to tide</p> <p>24 over, but I'm going to log out, come back in --</p> <p>25 MR. KEENAN: Okay.</p>	<p style="text-align: right;">Page 72</p> <p>1 Exhibit 135 better?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. You'll see the same document, but just some</p> <p>4 different housing areas, correct?</p> <p>5 A. Mm-hmm, yes.</p> <p>6 Q. All right. And you'll see here on quad lower four</p> <p>7 at AMKC on March 21, Virex is empty, correct?</p> <p>8 A. Yes.</p> <p>9 (Exhibit Number 136 was marked for identification.)</p> <p>10 BY MR. KEENAN:</p> <p>11 Q. All right. Stop that screen share and come back</p> <p>12 to the main one. Next I'll show you what's going to be</p> <p>13 marked as Exhibit 136, begins at Bates number 409. This</p> <p>14 is the same thing, a daily survey at Vernon C. Bain</p> <p>15 Center at March 22 at various housing areas, correct?</p> <p>16 A. Can you go up one, please? Yeah, it's VCBC.</p> <p>17 (Exhibit Number 137 was marked for identification.)</p> <p>18 BY MR. KEENAN:</p> <p>19 Q. Okay. Now I'm showing you what is marked as</p> <p>20 Exhibit 137. This is the COVID daily survey for MDC for</p> <p>21 March 23, correct?</p> <p>22 A. Yes.</p> <p>23 Q. As well as some units of Vernon C. Bain Center,</p> <p>24 correct?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 71</p> <p>1 MR. THAYER: -- Chuck, if you want to</p> <p>2 hold down the fort while I do that.</p> <p>3 MR. KEENAN: Okay.</p> <p>4 (Exhibit Number 134 was marked for identification.)</p> <p>5 BY MR. KEENAN:</p> <p>6 Q. Next we have Exhibit 134, which is stamped</p> <p>7 beginning at 401. Do you see that, Deputy Commissioner</p> <p>8 Feeney?</p> <p>9 A. Yes.</p> <p>10 Q. It's the same document just a different day,</p> <p>11 right?</p> <p>12 A. Yes.</p> <p>13 (Exhibit Number 135 was marked for identification.)</p> <p>14 BY MR. KEENAN:</p> <p>15 Q. And here it's -- you'll have to turn your head a</p> <p>16 little bit, but this is going to be marked Exhibit 135.</p> <p>17 It's stamped beginning 423. Same thing, it's a COVID 19</p> <p>18 daily survey, correct?</p> <p>19 A. Yes. You can't turn it around?</p> <p>20 Q. I'm trying. Okay. Now that I've got it</p> <p>21 downloaded, I can stop this screen share and start</p> <p>22 another one, that has the -- has the underlying document.</p> <p>23 Okay?</p> <p>24 A. Thank you.</p> <p>25 Q. All right. And now are you able to see</p>	<p style="text-align: right;">Page 73</p> <p>1 Q. Okay. The MDC is the Manhattan Detention Center,</p> <p>2 correct?</p> <p>3 A. Manhattan Detention Complex.</p> <p>4 Q. Manhattan Detention Complex, also known as the</p> <p>5 Tombs?</p> <p>6 A. Yes.</p> <p>7 Q. And what is the Manhattan Detention Complex used</p> <p>8 for at this time, or is it no longer being used at this</p> <p>9 time?</p> <p>10 A. Right now the jail is closed, but the court</p> <p>11 facilities are open.</p> <p>12 Q. Okay. And so are those basically temporary</p> <p>13 holding cells for people making court appearances?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Nobody say stays there overnight?</p> <p>16 A. They might stay there overnight if they get</p> <p>17 arrested during the night and they don't see the judge</p> <p>18 until the morning.</p> <p>19 Q. Okay. All right. Do you know what the current</p> <p>20 approximate daily population is of the Manhattan</p> <p>21 Detention Complex?</p> <p>22 A. Zero.</p> <p>23 Q. Zero. Well, I mean, like, how many people are in</p> <p>24 there right now?</p> <p>25 A. I have no idea.</p>

<p>Page 74</p> <p>1 Q. Okay.</p> <p>2 A. Nobody in the jail. I don't know how many people</p> <p>3 are in the court.</p> <p>4 Q. Okay. Yeah, that's what I'm asking.</p> <p>5 A. I don't know how many are in the court right now.</p> <p>6 Q. Are statistics kept on that?</p> <p>7 A. Hmm, I don't know if we have statistics about how</p> <p>8 many people are in the court part at any particular time.</p> <p>9 I'm not sure.</p> <p>10 (Exhibit Number 138 was marked for identification.)</p> <p>11 BY MR. KEENAN:</p> <p>12 Q. Next I'm showing you Deputy Commissioner Feeney,</p> <p>13 what's going to be marked as Exhibit 138. It begins at</p> <p>14 Bates Number 394. Also a COVID 19 daily survey for March</p> <p>15 24, 2021, correct?</p> <p>16 A. Yes.</p> <p>17 Q. And some of these are work order forms, correct?</p> <p>18 A. Yes.</p> <p>19 Q. A number of these forms mention that the mold and</p> <p>20 mildew cleaner was discontinued, correct?</p> <p>21 A. Yes.</p> <p>22 Q. Why was it discontinued?</p> <p>23 A. It wasn't necessarily discontinued. The vendor</p> <p>24 just didn't have it at the time. It was back ordered.</p> <p>25 Q. Okay. Is it back in the housing unit now?</p>	<p>Page 76</p> <p>1 A. Not necessarily. Not specifically.</p> <p>2 Q. Do you interact with the Board of Correction at</p> <p>3 all?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. How?</p> <p>6 A. I work with Kate McMahon on providing documents</p> <p>7 after an inmate passes away. I -- if they contact me for</p> <p>8 anything, I'm responsive to what they send me. I testify</p> <p>9 at their hearings.</p> <p>10 (Exhibit Number 87 was marked for identification.)</p> <p>11 BY MR. KEENAN:</p> <p>12 Q. Deputy Commissioner Feeney, I'm now showing you</p> <p>13 what's been previously marked as Exhibit 87, and I'll try</p> <p>14 and get this dealt with here so you can see it.</p> <p>15 Deputy Commissioner Feeney, can you see this as a</p> <p>16 housing area checklist for the Board of Correction in</p> <p>17 March of 2021?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Have you ever seen the Board of Corrections</p> <p>20 housing area checklist?</p> <p>21 A. No.</p> <p>22 Q. From your viewpoint what is the Board of</p> <p>23 Correction's job?</p> <p>24 A. The Board of Correction creates -- there --</p> <p>25 (Court reporter interrupts for clarification.)</p>
<p>Page 75</p> <p>1 A. Yes. Also, the Virex also kills mildew, so --</p> <p>2 Q. Okay.</p> <p>3 A. -- you know, it's just kind of -- using Tilex in</p> <p>4 your house when you're also cleaning with your</p> <p>5 disinfectant. It's just an extra mildew cleaner. But</p> <p>6 the Virex is also effective against mildew. So not</p> <p>7 having it really isn't a big deal.</p> <p>8 (Exhibit Number 139 was marked for identification.)</p> <p>9 BY MR. KEENAN:</p> <p>10 Q. Okay. Next I'm showing you what's marked as -- or</p> <p>11 going to be marked as Exhibit 139. Same idea, COVID 19</p> <p>12 daily surveys. This is -- starts at March 25, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Beginning at Bates stamp 413, right?</p> <p>15 A. Yes.</p> <p>16 Q. Down there?</p> <p>17 A. Mm-hmm.</p> <p>18 (Exhibit Number 109 was marked for identification.)</p> <p>19 BY MR. KEENAN:</p> <p>20 Q. Next I'm going to show you what's been previously</p> <p>21 marked as Exhibit 109. See if it comes up here. All</p> <p>22 right. Deputy Commissioner Feeney, I'm showing you</p> <p>23 what's been previously marked as Exhibit 109. Are you</p> <p>24 aware of the Board of Correction touring EMTC in December</p> <p>25 of 2020?</p>	<p>Page 77</p> <p>1 A. I'm sorry. An oversight agency.</p> <p>2 (Exhibit Number 88 was marked for identification.)</p> <p>3 BY MR. KEENAN:</p> <p>4 Q. Next I'm going to show you what has been</p> <p>5 previously marked as Exhibit 88. Do you see in front</p> <p>6 of you -- I just changed some of the screens here. But</p> <p>7 do you see a housing area checklist from Housing Unit</p> <p>8 GP right here?</p> <p>9 A. The information is backwards. The housing unit</p> <p>10 is 3-CB and the type is GP. They have it in the wrong</p> <p>11 place.</p> <p>12 Q. Okay. Got it. I appreciate that. My key</p> <p>13 concern is just making sure that we're looking at the</p> <p>14 same document. It looks like we are. It has written</p> <p>15 at the top, "A equals 44. B equals 32." Do you see</p> <p>16 that?</p> <p>17 A. Yes.</p> <p>18 Q. So this has been previously marked as Exhibit 88.</p> <p>19 It's also a Board of Correction housing area checklist.</p> <p>20 Getting to an area on sanitation. Do you see kind of a</p> <p>21 check right above the no area on, "Did you observe</p> <p>22 cleaning supplies?"</p> <p>23 A. No. I see a check between the no with picture</p> <p>24 taken, and a no with were there cleaning --</p> <p>25 Q. Okay.</p>

<p>Page 78</p> <p>1 A. -- supplies.</p> <p>2 Q. Okay. And it said Virex 256, yes, is available,</p> <p>3 correct?</p> <p>4 A. Yes, so if Virex 256 is available, clearly</p> <p>5 there's cleaning supplies available. They're also</p> <p>6 saying there's sponges, cloths.</p> <p>7 Q. Okay.</p> <p>8 A. So they're documenting that cleaning supplies are</p> <p>9 available.</p> <p>10 Q. There's also a discussion of COVID posters. Says</p> <p>11 here they're not available in English or Spanish. Can</p> <p>12 you tell me what the COVID posters are?</p> <p>13 A. We have several COVID posters. One is called,</p> <p>14 like, the flu in you poster that tells you, you know,</p> <p>15 cover your -- your mouth when you're -- your nose and</p> <p>16 your mouth when you're sneezing, keep social</p> <p>17 distancing, wear your mask. There are several COVID</p> <p>18 posters, so I'm not exactly sure which ones they're</p> <p>19 referring to.</p> <p>20 Q. Okay. And go back to Exhibit 87. This is Bates</p> <p>21 stamped 1734, Board of Correction checklist. Look at</p> <p>22 Question Number 33 on this checklist. Okay. Same</p> <p>23 idea. All right. Computers. Just some delays here.</p> <p>24 MR. KEENAN: Is everybody still able to</p> <p>25 hear me?</p>	<p>Page 80</p> <p>1 A. Yes.</p> <p>2 (Exhibit Number 100 was marked for identification.)</p> <p>3 BY MR. KEENAN:</p> <p>4 Q. Deputy Commissioner Feeney, I'm going to show you</p> <p>5 what's been previously marked as Exhibit 100. This is</p> <p>6 an -- are you able to see it on the screen here?</p> <p>7 A. Yes.</p> <p>8 Q. It's Board of Correction on-site inspection</p> <p>9 report of EMTC, Eric M. Taylor Center, dated March 29,</p> <p>10 2021, correct?</p> <p>11 A. That's what it says.</p> <p>12 Q. Okay. EMTC is a -- is a COVID housing area deck?</p> <p>13 A. Well, it's a new admission housing area.</p> <p>14 Q. Okay.</p> <p>15 A. Where there's some positive COVID places as of</p> <p>16 March 20, 2021.</p> <p>17 Q. Okay. And go to page 7, Exhibit 100. You'll see</p> <p>18 that there's, for instance, in the upper -- one upper</p> <p>19 EMTC, there's a -- there are questions asked. It's</p> <p>20 standard questions asked if officers that DOC is</p> <p>21 talking with. And when asked about the vaccination,</p> <p>22 you're seeing officers opting not to answer or saying,</p> <p>23 "No, I'm not taking advantage of vaccination because</p> <p>24 I'm on a triple," or that -- or just saying, "No, I'm</p> <p>25 not talking advantage of vaccination at GMDC." Do you</p>
<p>Page 79</p> <p>1 THE WITNESS: Yes.</p> <p>2 MR. KEENAN: Okay. I think the system's</p> <p>3 getting a little overloaded with data here.</p> <p>4 (An off-the-record discussion was held.)</p> <p>5 MR. KEENAN: Yeah, I think I might need</p> <p>6 to close some documents.</p> <p>7 (Exhibit Number 93 was marked for identification.)</p> <p>8 BY MR. KEENAN:</p> <p>9 Q. All right. Just see what I can shorten up here.</p> <p>10 Deputy Commissioner Feeney, I'm going to show you</p> <p>11 what's been previously marked as Exhibit 93. And you'll</p> <p>12 see here in the middle of the second page of Exhibit 93</p> <p>13 it says, "No immediate access to cleaning supplies. The</p> <p>14 cleaning supplies are kept in the A station." Do you see</p> <p>15 that maybe about ten lines from the top?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. What would it mean that cleaning supplies</p> <p>18 are kept in the A station?</p> <p>19 A. So I don't know where this is, so it's hard for me</p> <p>20 to answer. There shouldn't be cleaning supplies in the A</p> <p>21 station unless -- it might be if something the wrong with</p> <p>22 the janitor closet door. But there's no area there, so I</p> <p>23 can't really answer.</p> <p>24 Q. Okay. Are you still there? You appear for</p> <p>25 frozen. Are you able to hear me?</p>	<p>Page 81</p> <p>1 see that?</p> <p>2 A. Yeah, I see.</p> <p>3 Q. What efforts are being made, if any, to encourage</p> <p>4 vaccination among officers and staff and deal with</p> <p>5 misinformation about the COVID 19 vaccines?</p> <p>6 A. The department set up virtual meetings with the</p> <p>7 health department so that they could answer any questions</p> <p>8 that staff at had about vaccines after presentation was</p> <p>9 made. We had made videos where executive staff had</p> <p>10 partaken of the vaccine and explained why it's important</p> <p>11 for staff to take the vaccine.</p> <p>12 We have -- there are vaccine -- there's vaccine</p> <p>13 information provided on the DOC internet. There are</p> <p>14 Teletypes that go out telling staff when the vaccines are</p> <p>15 available. There's poster campaigns. And we also have a</p> <p>16 COVID question email that staff can ask any questions</p> <p>17 related to COVID issues that they would like answered.</p> <p>18 Q. Okay.</p> <p>19 A. And then it's offered right on Rikers island. So</p> <p>20 you don't have to do anything other than go to GMDC. You</p> <p>21 don't even have to schedule it. They'll take walk-ins.</p> <p>22 (Exhibit Number 140 was marked for identification.)</p> <p>23 BY MR. KEENAN:</p> <p>24 Q. Deputy Commissioner Feeney, I am showing you what</p> <p>25 is going to be marked as Exhibit 140. This is the</p>

<p style="text-align: right;">Page 82</p> <p>1 New York City Board of Correction monitoring COVID 19 2 responses in New York City jail, April 5 through May 3 11, 2020, published May 11, 2020. Do you see that? 4 A. Yes. 5 Q. Have you ever reviewed the document? 6 A. I've seen it, yes. 7 Q. And it mentions down here on the board staff, 8 somebody you mentioned, Kate McMahon, correct? 9 A. Yes. 10 Q. See a recommendation -- and, you know, this is 11 from over a year ago. You see a recommendation on the, 12 I guess, one, two, three -- fourth page of this 13 document that talks about phone access and cleaning. 14 And it talks about all contact surfaces and phones to 15 be cleaned every two hours. Has that ever been the 16 policy, or is the policy instead that needs to be 17 cleaned after each use? 18 A. It's both things. The house detail is supposed 19 to clean contact surfaces every two hours. But in 20 addition, we keep the sanitizing solution and sponges 21 available so that incarcerated individuals can clean 22 the phones before they use it. 23 Q. Okay. And this is -- you're talking here about 24 phones in the housing areas say in the day rooms -- 25 (Mr. Keenan loses connection.)</p>	<p style="text-align: right;">Page 84</p> <p>1 is it a hard number of every two hours the phones need 2 to be cleaned by cleaning crews? Or is that not the 3 policy? 4 A. Our enhanced video -- sorry, our enhanced policy 5 does say every two hours. We opted, when the CDC 6 decided that common touch service really only need be 7 to cleaned every day, not to decrease our frequency. 8 So the policy has remained the same. 9 Q. Every two hours? 10 A. Yes. 11 Q. And what do you do to monitor compliance with 12 that policy? 13 A. Again, we have those audits, the captains -- in 14 the audits that the captains do, they have to document 15 the last time that sanitation was performed prior to 16 their tour. 17 Q. Okay. I think those are all the questions I've 18 got right now, I'm going to check with my colleague 19 real quick. But I think we should be able to -- to 20 adjourn here. Give me just a second. 21 (A brief break was taken.) 22 BY MR. KEENAN: 23 Q. Just looking over my notes, I can't think of 24 anything else. I did want to ask you, back on the 25 record briefly, Deputy Commissioner Feeney, you</p>
<p style="text-align: right;">Page 83</p> <p>1 (An off-the-record discussion was held.) 2 (A break was taken from 5:19 p.m. until 5:22 p.m.) 3 BY MR. KEENAN: 4 Q. Deputy Commissioner Feeney, before the video 5 froze up, I was asking you about -- 6 MR. KEENAN: And boy, David's video 7 just -- okay. You're back, David. 8 BY MR. KEENAN: 9 Q. I was asking you about the cleaning of phones and 10 phone areas vis-a-vis televisit area. So I guess I 11 want to make it a distinction, if we need to. When we 12 talk about phones, are we talking about televisit 13 areas, or are those distinct things? 14 A. They're distinct things. That recommendation was 15 about housing area phones, not the televisit equipment. 16 Q. Okay. And so can you tell me what the current 17 policy is on sanitation of phones? 18 A. Common touch surfaces, including phones, are to 19 be sanitized several times a day, couple -- every two 20 hours. In addition, we leave Virex and sponges 21 available at phones so that if an incarcerated 22 individual would rather clean the phone before they use 23 it, they're able to do so without having to go to the 24 janitor closet, and that taking time. 25 Q. All right. And what do you do to -- is it a --</p>	<p style="text-align: right;">Page 85</p> <p>1 completed the responses to both the City's the first 2 interrogatories we directed to the City and the second 3 interrogatories we directed to City, as well, correct? 4 A. What are interrogatories? 5 Q. They are questions that -- that a party has to 6 answer under oath. Or if they're an organization, like 7 the City, someone has to verify them on the 8 organization's behalf. Does that orient you towards 9 what I'm talking about? 10 A. I've answered whatever I was asked to answer. 11 Q. Okay. All right. Let me show you a quick 12 document here. Here on the screen share, Defendant's 13 Responses and Objections to Plaintiff's Second Set of 14 Interrogatories. Do you see that there? 15 A. Yes. 16 Q. Okay. I'll bring you to the end. Is that your 17 signature? 18 A. Oh, okay, yes. Okay. I did, yes. 19 Q. Okay. And you reviewed these and verified that 20 they're true and correct? 21 A. Yes. 22 Q. Okay. Have you completed any other sets of 23 interrogatories for the City? 24 A. I don't know. 25 MR. KEENAN: Okay. Chuck, David, I</p>

<p>Page 86</p> <p>1 can't honestly remember, were the second rogs the most 2 recent ones that they responded to, or have there been 3 others? 4 MR. ORSLAND: I believe so. I think I 5 owe you another one. 6 MR. KEENAN: Okay. All right. 7 MR. ORSLAND: I do owe you some stuff in 8 terms of interrogatories and document responses. 9 MR. KEENAN: Okay. All right. Just a 10 second. 11 BY MR. KEENAN: 12 Q. Okay. Deputy Commissioner Feeney, are there any 13 policy changes that you're planning right now regarding 14 masks? 15 A. No. 16 Q. Okay. How about regarding cleaning of high-touch 17 services? 18 A. No. 19 Q. And how about any policy changes that you're 20 planning regarding any other aspects of management of 21 COVID inside the department? 22 A. No, not that I'm aware of. 23 MR. KEENAN: All right. That's all I 24 have at this time. So I'm ready to adjourn. 25 I don't know if, David or Chuck, if you</p> <p>Page 87</p> <p>1 have any questions? 2 MR. ORSLAND: No. No. 3 MR. KEENAN: Okay. All right. Okay. 4 Yeah. I can't think of anything else. If I do, I'll 5 let you know if we need to ask any more questions or 6 anything, but I can't imagine what it would be. If it 7 were, it would be very brief. 8 So that's -- that's all off got for now, 9 and thank you very much for your time, Deputy 10 Commissioner Feeney, and thank you for your 11 flexibility. 12 MR. ORSLAND: Can you and I discuss some 13 things for a couple minutes on some housekeeping stuff? 14 MR. KEENAN: Yeah. Yeah. I'll end the 15 recording. 16 (Deposition concluded at 5:30 p.m.) 17 18 19 20 21 22 23 24 25</p>	<p>Page 88</p> <p>1 CERTIFICATE OF REPORTER 2 I, Liebe Stevenson, a Certified Court 3 Reporter, do hereby certify that the witness whose 4 testimony appears in the foregoing deposition was duly 5 sworn by me; that the testimony of said witness was 6 taken by me to the best of my ability and thereafter 7 reduced to typewriting under my direction; that I am 8 neither counsel for, related to, nor employed by any of 9 the parties to the action in which this deposition was 10 taken; and further, that I am not a relative or 11 employee of any attorney or counsel employed by the 12 parties thereto, nor financially or otherwise 13 interested in the outcome of the action. 14 15 /s/ Liebe Stevenson 16 LIEBE STEVENSON, C.C.R. #1340 17 18 19 20 21 22 23 24 25</p>
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