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# *Committee Meeting*

Of

## ASSEMBLY JUDICIARY COMMITTEE

## ASSEMBLY WOMEN AND CHILDREN COMMITTEE

*“The committees will take testimony from Marcus O. Hicks, Esq., Commissioner of the New Jersey Department of Corrections, and invited guests concerning the recent allegations and needed reforms at the Edna Mahan Correctional Facility for Women and other related issues”*

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**LOCATION:** Remote

**DATE:** April 8, 2021  
9:30 a.m.

**MEMBERS OF COMMITTEE PRESENT:**

Assemblyman Raj Mukherji, Chair  
Assemblywoman Carol A. Murphy, Vice Chair  
Assemblyman Nicholas A. Chiaravalloti  
Assemblyman Gordon M. Johnson  
Assemblyman Robert Auth  
Assemblyman Christopher P. DePhillips

Assemblywoman Gabriele Mosquera, Chair  
Assemblywoman Lisa Swain, Vice Chair  
Assemblywoman Angela McKnight  
Assemblywoman Aura K. Dunn  
Assemblywoman Nancy F. Muñoz



**ALSO PRESENT:**

Miriam Bavati  
Michelle Leblanc  
*Office of Legislative Services  
Committee Aides*

Mark Iaconelli  
Shannon Natale  
Anita Ouedraogo  
*Assembly Majority  
Committee Aides*

Natalie Ghaul  
Kevin Logan  
*Assembly Republican  
Committee Aides*

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Therefore, portions of this transcript may not be completely accurate as portions were inaudible and/or indiscernible.*

***Meeting Recorded and Transcribed by  
The Office of Legislative Services, Public Information Office,  
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey***

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Raj Mukherji  
Chair

Carol A. Murphy  
Vice Chair

Nicholas A. Chiaravalloti  
Gordon M. Johnson  
Robert Auth  
Christopher P. DePhillips



Miriam Bavati  
Sarita J. Welsh  
Office of Legislative Services  
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## **NEW JERSEY STATE LEGISLATURE**

### **ASSEMBLY JUDICIARY COMMITTEE**

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### **COMMITTEE NOTICE**

TO: MEMBERS OF THE ASSEMBLY JUDICIARY COMMITTEE

FROM: ASSEMBLYMAN RAJ MUKHERJI, CHAIRMAN

SUBJECT: **COMMITTEE MEETING - APRIL 8, 2021**

*The public may address comments and questions to Miriam Bavati, Sarita J. Welsh, Committee Aides, or make bill status and scheduling inquiries to Denise Darmody, Secretary, at (609)847-3865, fax (609)292-6510, or e-mail: [OLSAideAJU@njleg.org](mailto:OLSAideAJU@njleg.org). Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.*

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**The Assembly Judiciary Committee and the Assembly Women and Children Committee will hold a joint remote meeting on Thursday, April 8, 2021 at 9:30 AM.**

**The committees will take testimony from Marcus O. Hicks, Esq., Commissioner of the New Jersey Department of Corrections, and invited guests concerning the recent allegations and needed reforms at the Edna Mahan Correctional Facility for Women and other related issues.**

**Due to the public health emergency, the State House Annex remains closed to visitors. The public may not attend the Committee meeting in person but may view the meeting via the New Jersey Legislature home page at <https://www.njleg.state.nj.us/>.**

Issued 4/1/21

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**ASSEMBLYMAN RAJ MUKHERJI (Chair):** Okay; together with Chairwoman Gabby Mosquera, the Assembly Judiciary Committee and the Assembly Women and Childrens Committee will call -- jointly call this meeting to order.

If we can begin by rising for the Pledge of Allegiance.

(all recite the Pledge of Allegiance)

Miriam, if you could read the Open Public Meetings Act notice.

**MS. BAVATI (Committee Aide):** Notice has been given to the public in accordance with the rules of the General Assembly, as approved by the Speaker.

**Assemblyman MUKHERJI:** Thank you, Miriam. We have a special guest joining us, Speaker Coughlin. If you care to welcome everyone.

**ASSEMBLYMAN CRAIG J. COUGHLIN:** Thank you, Mr. Chairman, and thank you, Chairwoman Mosquera, for your work here today.

I'd like to thank everybody, welcome everybody to the hearing, thank everyone for their participation. I look forward to seeing robust discussion around some issues that are critically important to the State of New Jersey. And I wanted to thank Commissioner Hicks for agreeing and for being with us this morning; thank the Chairs and all the members and staff, everyone who was instrumental in putting this hearing together today.

I just want to say thank you for all of that, and good luck. Thank you, Mr. Chairman, Madam Chairwoman.

**ASSEMBLYMAN MUKHERJI:** Thank you, Speaker.

So, I'll begin-- Actually why don't we -- let's do the roll call.

MS. BAVATI: For the Assembly Judiciary Committee:  
Assemblyman DePhillips.

ASSEMBLYMAN DePHILLIPS: Present.

MS. BAVATI: Assemblyman Johnson. (no response)

Assemblyman Johnson is here.

Assemblyman Chiaravalloti.

ASSEMBLYMAN CHIARAVALLOTI: Present.

MS. BAVATI: Vice Chair Murphy.

ASSEMBLYMAN JOHNSON: Johnson is here.

**ASSEMBLYWOMAN CAROL MURPHY (Vice Chair):** I'm  
here, thank you.

MS. BAVATI: Chairman Mukherji.

ASSEMBLYMAN MUKHERJI: Present.

MS. BAVATI: Thank you.

Roll call for the Assembly Women and Childrens Committee.

Assemblywoman Mosquera.

**ASSEMBLYWOMAN GABRIELE MOSQUERA (Chair):**  
Here.

MS. BAVATI: Assemblywoman Swain.

**ASSEMBLYWOMAN LISA SWAIN (Vice Chair):** Here.

MS. BAVATI: Assemblywoman McKnight.

ASSEMBLYWOMAN MCKNIGHT: Here.

MS. BAVATI: Assemblywoman Dunn.

ASSEMBLYWOMAN DUNN: Present.

MS. BAVATI: And Assemblywoman Muñoz.

ASSEMBLYWOMAN MUÑOZ: Here.

ASSEMBLYMAN MUKHERJI: Okay. I'll begin with a few brief remarks by way of opening, and Chairwoman Mosquera will follow.

Commissioner, welcome, and if it's all right with you, if you would like to give an opening statement or introductory remarks; and then we can get right into the questioning. And we welcome you and your staff here today, as well as Mr. DiBenedetti, the Ombudsperson -- welcome to you, as well.

It says he's still connecting to audio -- do we know, do we have the Ombudsperson on?

**DANIEL T. DIBENEDETTI:** Yes, sir.

ASSEMBLYMAN MUKHERJI: Oh, good, okay. It looks like he's on.

So, you know-- I recognize that maintaining order and discipline as a means to ensuring safety and security in our prisons has to be foremost priorities in the mission of anyone working in a correctional setting.

But why we're here today, why these Committees are jointly convened -- it's the pattern of abuse, the systemic failures we will discuss through the day today, determine that mission. The Eighth Amendment of the United States Constitution prohibits cruel and unusual punishment. Every prisoner has a right to be free of sexual abuse by prison employees while confined. No sentence includes abuse or rape regardless of the crime for which an inmate was convicted. We can all agree on that.

PREA -- the Federal Prison Rape Elimination Act -- was enacted by Congress nearly 20 years ago to combat the widespread problem of sexual abuse in prisons, which was not then unique to Edna Mahan. And

the Civil Rights of Institutionalized Persons Act, CRIPA, authorizes the Justice Department to act when there is a pattern or practice of depriving inmates of their constitutional rights and human rights.

Exactly one year ago this week, the Justice Department and the United States Attorney for the Local Federal District found that the New Jersey Department of Corrections and the Edna Mahan Facility are violating the Constitution, because Edna Mahan -- and I quote from the report -- one, "Fails to protect women prisoners from sexual abuse by staff in violation of the Eighth Amendment," and, two, "Exposes women prisoners to substantial risk of serious harm from sexual abuse in violation of the Eighth Amendment. Systemic failures in Edna Mahan's policies and practices discourage reporting of sexual abuse, do not provide an adequate response to an investigation of allegations of prisoners' sexual abuse, and result in inadequate supervision that provides opportunities for further sexual abuse." End quote.

Fast forward a year, and considering the events of January 11 and other facts I've learned over the course of an exhaustive investigation this Committee began -- these Committees began conducting weeks ago, it's unclear to those of us up here whether things have gotten better or worse.

There are serial rapists who continue to have inmates entrusted to their care and custody, who continue to be employed at Edna Mahan today. And there are others who share culpability, because they stand idly by, keeping watch; or supervisors reluctant to audit the security footage, even though they're required to do so. They let it happen. These things, coming from the report or from the observations by the Attorney General's



Office in bringing these indictments, makes that clear. And there's been rampant obstruction of that investigation, which is ongoing.

Now, I recognize these are just a few bad apples. It's not reflective of the vast majority of the staff -- your staff, Commissioner -- at the Department of Corrections, who are heroes in uniform and have been essential during this pandemic and long before. Their jobs are risky -- they're put in harm's way, they face violence from inmates; and their families are concerned about their safety and well-being when they come home each day from work. And certainly, we're talking about a few bad apples.

But there's been a lot of scrutiny on Edna Mahan: lots of press coverage; auditors; SID, the correctional equivalent of internal affairs, criminal investigators who report to the Attorney General; indictments; and Feds in and out of that place. And we're not talking about the past two months since the brutality of January 11 -- we're talking about over the past two decades. And yet it continues and the practices resume. The mattress reappears in a storage closet; the blind spots in video surveillance remain. And nothing really changes. There's a culture of impunity.

What we're looking for today -- as I conclude my remarks -- we're looking for answers as to how that's possible, how after all we've read and heard, and the number of times we've gone down this road, there's still not a fear of God, there still isn't a Federal Consent Decree after that, dare I say, damning report was issued a year ago. Have the remedial measures outlined in the report arising out of the Federal civil rights investigation been implemented? Is the Department complying with all of the provisions

of the Dignity Act, which was signed 15 months ago and has been the law of the land in this State since August?

Mr. Ombudsperson, you know -- where have you been? Your job -- you were armed, empowered, and tasked by that law to be an independent watchdog and to prevent the kinds of criminal atrocities that occurred on January 11. And so we look forward to hearing from you about that.

Commissioner, today we hope to learn where you've been and what you're doing. And we're glad you're here today; we appreciate that. When the Judiciary Committee was examining the pandemic in our prisons and why our COVID-19 death rate in your facilities at that point was the highest in the country, you weren't able to appear and I think that had a deleterious impact on our investigation. And I think that this inquiry will be fuller by virtue of your appearance.

We're not here to grandstand and score points for press coverage. We just can't let history keep repeating itself. We're a policymaking body and our inquiry will be guided in that way.

And I'd like to turn it over to Chairwoman Mosquera for opening remarks on behalf of the Women and Childrens Committee.

ASSEMBLYWOMAN MOSQUERA: Good morning, Commissioner Hicks, thank you for joining us today.

I have to say that the mistreatment of the inmates at Edna Mahan Correctional Facility is concerning would be a significant understatement. The allegations of physical and sexual abuse that far too many women have endured in this facility are unacceptable.

I was appalled by recent reports of guards abusing their power to degrade and injure, and ultimately violate rights of women in their case -- I'm sorry -- in their care. The fact that this is not the first time our State has looked into similar allegations; the fact that this has been ongoing since the 90's at the same facility makes it all more troubling.

Again, I am not talking about the events that happened on January 11, I'm not focusing on that. What we're focusing on is the report from the Department of Justice concerning this allegations of abuse and the culture within this facility. The pattern of abuse cannot go on.

The purpose of today's hearing will be to investigate the culture of this facility and determine what procedures have been implemented to protect inmates. As the Speaker has said, we need answers and we need reforms. This hearing will help us to determine what changes need to be made on behalf of the women in this facility.

So Mr. Hicks, thank you very much. Now, again, I know that Chairman Mukherji set the stage, I just want to wrap it up and just basically say we understand that your Department is -- has a lot of employees, and we're not going after the wonderful correction Officers who do wonderful jobs and are our heroes, and do very dangerous jobs.

However, what we're focusing on are the bad apples that are continuing to be employed by the Department to protect women at this facility. My purpose is to find out why these bad apples are still there.

Thank you, and I look forward to your response.

ASSEMBLYMAN MUKHERJI: Thank you, Madam Chair.

I just want to acknowledge the incredible hard work of a number of legislative staffers in making this day possible. The Judiciary

Committee Aide Mark Iaconelli; Committee Aide Shannon Natale; also from the Majority Office: Ian McLaughlin, Frank Ferantelli, Kristen Powell, and of course Jennifer Taylor and Seth Hahn; from my staff; Jash Gill and Brooke Lockwood; and Juan Carlos Nordelo from Assemblywoman's Lopez's staff, who has had a lot of expertise in this arena.

With those acknowledgements made, Commissioner, we welcome you, and the floor is yours.

**MARCUS O. HICKS, ESQ.:** Thank you very much, Chairman Mukherji, and thank you, Chairwoman Mosquera.

Before I begin I'd like to take the opportunity to introduce Matthew Beck, who is sitting next to me. He's counsel; you might be hearing from him at some point during the day, but I wanted to introduce him before I begin.

**MATTHEW E. BECK, ESQ.:** Good morning.

**MR. HICKS:** Once again, good morning members of the Assembly. I want to thank you for the opportunity to discuss the New Jersey Department of Corrections; work related to Edna Mahan Correctional Facility for Women, and my Administration's dedication and efforts to fulfill the Department's mission of operating safe and human facilities. Public servants who seek a career within the NJ DOC commit to ensuring both the public safety and the safety of thousands of individuals in State custody, and an overwhelming number of employees do just that.

I recognize this commitment, because it's part of my value system. My career has been in public service, serving as a policy advisor and policy counsel to former Governors Corzine and Codey before joining this Department. In these roles, I focused on criminal justice and ethics

reform. At the NJ DOC I worked in various roles, including as Chief of Staff, and Director of Programs and Community Services, where I was responsible for providing comprehensive re-entry services to inmates and community release programs.

Rehabilitation and re-entry is my passion project, and I'm personally rewarded by helping individuals succeed and making the most of their second chance with the resources that we've provided. My years of service with the Department and institutional knowledge of the corrections industry provide me with the unique qualifications to identify solutions within this Department.

As Commissioner, I finally have the ability to make real change to address issues that have evaded appropriate attention and solutions for decades, putting the Department on the path of providing appropriate care, safety, and security for all inmates entrusted to our custody.

This includes reaching a settlement on the Edna class action lawsuits stemming from 2014 to the present. My Administration is ushering in a new era of corrections, with safety and rehabilitation at its core, to maintain safety within our facilities.

I also want to let you know that the Department of Corrections has reached an agreement on a Consent Decree with the US Department of Justice in response to the findings of that April 2020 report on Edna Mahan. That agreement is awaiting final approval from DOJ headquarters, which we expect to receive in the coming weeks. Because the agreement is pending final approval, I can't disclose the details at this time, but I look forward to sharing them with you as soon as the agreement has been finalized.

I value our partnerships to address modern correctional challenges, while affording individuals in our care the fundamental right of human decency and security, regardless of their crimes. I look forward to you joining me on a tour of our facility on Monday, April 19, and I thank many of you for being a part of this process.

Together with my team, and input from stakeholder, advocates, and the Legislature, we've made considerable strides to implement creative and sustainable solutions benefitting the incarcerated population and increase transparency around our efforts, positioning New Jersey as a leader in the Corrections space.

Due to our thought leadership and best practices, I have been voted by my National Correctional peers to serve as Vice President of the Correctional Leaders Association, which is a national consortium with Corrections CEO's, leading over 400,000 correctional professionals and 8,000,000 inmates, probationers, and parolees. New Jersey is the go-to resource for correctional best practices; for my medication-assisted treatment; for substance use disorders; to our college education program; and from our officer suicide prevention initiatives to our gender responsive training courses; we are committed to maintaining our leadership foothold and serving as an example of a modern correctional system.

My Administration has worked incredibly hard to develop these programs and implement safety reforms. And despite this progress, we are here, in large part, because of an abhorrent incident that violates every aspect of the Department's mission and commitment to operate safe, secure, and humane facilities for New Jersey's offenders.

I value today's opportunity to speak with you about initiatives at Edna Mahan's Correctional Facility for Women -- those implemented since my taking this position in 2018, and those that are on the horizon -- about my leadership and my team, and about moving forward to establish real, sustainable, and appropriate change in this Department.

In starting with the event that prompted these hearings, I share in your disgust and disappointment for the incidents of January 11. Several women were brutally attacked by employees who proactively chose to disregard established protocols and practices that are necessary for proper cell extractions, de-escalation, and searches. These employees violated the trust and the safety of those in our care, and the faith that we put in them as public servants. No one deserves the horrific treatment that these women endured. And the NJ DOC has a zero tolerance policy for this behavior, and as Commissioner, I took swift action to address the incident, including immediately suspending all of those involved across the Department's hierarchy, pending an investigation.

The Department immediately and proactively referred the incident to both the Hunterdon County Prosecutor's Office and the Attorney General's Office for Criminal Investigation. Once I learned about the incident, I took these bold steps to send a very clear message that the Department does not condone this egregious behavior. Those who fail to follow the rules and fail to provide the safety, security, and dignity our inmates deserve, will be held accountable to the fullest extent of my administrative power and the law. The DOC remains committed to our continued partnership with the Office of the Attorney General and the

Hunterdon County Prosecutor's Office to ensure this investigation is thoroughly reviewed and all are held accountable.

We also welcome the State's independent investigation. Additionally, to help the population at Edna Mahan process the traumatic events of January 11, our Victim Services Unit made available increased mental health resources, social services, and religious services. Because of the ongoing criminal investigation and the State's independent investigation, I am not able to comment further on the January 11 incident or the steps that were taken in the incident's aftermath. But I want to thank Chairman Mukherji and Chairwoman Mosquera for recognizing this reality when the parameters of today's Committee Hearing was discussed.

Like all of you, I look forward to receiving the results of the State's independent investigation that will help us put in place the needed reforms and safeguards to prevent anything like this from ever happening again.

Policies are only as good as the training and disciplinary enforcement behind them. Our disciplinary process for our custody Officers are situational, thorough, and progressive -- meaning smaller disciplinary matters, such as minor attendance or failure to quickly follow directions that did not result in a safety or security issue, are met with a minor remedial disciplinary action and re-training. If the action persists, sanctions become greater, and potentially lead to removal.

In addition, our new computerized Early Warning System that will soon be deployed offers an opportunity for the Department to have a standardized review of staff conduct and potential issues. The EWS enables the Department's Administration to receive notification of staff



members that may be experiencing issues work-related and potentially wellness-related, and it provides us with the opportunity to address the situation through re-training or other services such as wellness, counseling, or outside treatment.

This will facilitate early intervention course-corrective action. Certain charges warrant immediate removal, such as undue familiarity, excessive force, or bringing in contraband. And the Department has a zero tolerance for these actions, or any actions, that compromises safety or causes harm to others. As part of the due process procedure, those criminally charged in the January 11 incident were charged with removal and are in non-pay status.

In addition to proper discipline, training remains critical to our mission of operating safe and humane facilities. As part of the training curriculum, legislation, for which we comply, mandates that NJ DOC provides a minimum of 20 hours of training to custody staff, which includes a mandated 4 hours of training in the prevention of sexual misconduct, non-fraternization, and manipulation. At this time, over 5,200 of our custody staff -- except for those who are on leave -- have been trained in modules, such as: employee as a professional, in undue familiarity, ethics training, the Prison Rape Elimination Act, trauma-informed Corrections, and search of persons.

The Department also offers proactive training modules such as gender-informed training for both custody and civilian staff. Aspects of this training include understanding the uniqueness of the female offender, family background components, trauma theory, abuse, relationships,

substance abuse; and then help to identify communication strategies to address the population's needs appropriately.

In addition, the Department provides annual training to our staff on ethics, uses of force, report writing, search of persons, understanding religious affiliation, understanding addiction, suicide prevention, communicable disease prevention, fire safety, and other safety-related topics. The Department understands that its value remains committed to investing in training.

As it pertains to personnel at Edna Mahan, we've taken steps to increase female leadership with all leadership positions filled by women -- including the Administrator, the Associate Administrator, two Assistant Superintendents, and a Custody Major -- who is the highest-ranking custody official in the facility -- all of whom report directly to the Deputy Commissioner of Operations, who sits on my executive team.

In addition, the Special Investigations Division Supervisor assigned to Edna, who reports to Central Office, is also a woman; as well as the supervisors who oversee programmatic support, such as social services, education, and chaplaincy services. Although recruiting female officers is challenging, there is approximately a 50-50 percent female to male ratio of officers; 162 females to 161 male officers overseeing a 372 offender population.

Having reviewed the Ombudsperson's report, I've assigned an additional assistant superintendent at Edna to manage offender grievances and remedy (indiscernible). The Department is also actively hiring an Assistant Commissioner of Women's Services reporting directly to me.

Additionally, my executive board compromises an almost 50 percent share of female leaders serving as Chief of Staff, Deputy Commissioner, Assistant Commissioners overseeing Administration and fiscal programs, education, county service, diversity and legal affairs; as well as Directors in such areas as compliance and social services, human resources, and public information. Together we develop and maintain policies focused on offender safety and holistic rehabilitation. Those policies include robust mandates of the Prison Rape Elimination Act, the law designed to prevent, detect, and respond to incidences of sexual abuse and harassment in confinement, for which we successfully meet compliance.

As part of PREA, the Department undergoes a comprehensive audit process that includes, but is not limited to, interviews with staff, offenders, and external victim advocates regarding sexual safety and other concerns at the facility. The audit also includes a forensic review of documentation such as grievances, policies and procedures, personnel files; inmate educational and programmatic files; and facility tours to observe critical functions such as intake risk screenings.

The sexual assault of offenders at Edna Mahan has plagued this Department and female prisons nationwide for decades. I expressly took this position with the dedication, fervor, and determination to make significant and real change. The status quo cannot and will not go on. Much change is needed, but we are moving in the right direction.

Since taking this position in 2018, we have engaged in immediate efforts and initiatives to eradicate sexual assault, establishing the Safety and Accountability for Edna task force comprised of NJ DOC executives. This task force was tasked with developing programs, safety and

security enhancements; they established the camera project, ensuring blind spot reductions; they increased educational awareness of PREA; they developed institutional posters with various reporting mechanisms; an information booklet and video content distributed to both staff and offenders at orientation. They increased reporting mechanisms, including a confidential hotline in the facilities to the Special Investigations Division for recording sexual abuse.

Individuals can report verbally or in writing to any NJ DOC staff, including the PREA Compliance Manager; a contractor or volunteer; through JPay; or through the Office of the Ombudsperson. Staff reporting continues to be the most utilized mechanism for reporting, followed by JPay and the SID hotline. Reporting can be made with confidentiality and anonymity to ensure everyone who reports can best select the recording mechanism right for their circumstances, and they can feel confident and comfortable reporting sexual abuse or harassment allegations.

Once an individual issues a report, all efforts are made to separate the alleged perpetrator from the victim. Additionally, the Department monitors for retaliation 90 days following the initial allegation, with timing extended as needed. I also appointed a dedicated PREA liaison at the facility, of the rank of Assistant Superintendent, who works directly with the MA population, SID, and the Central Office Headquarters PREA Coordinator. We offer continuous PREA staff training, and we increased the number of gender-restricted posts by 17.

In addition to the PREA enhancements, the SAFE Taskforce established child-friendly visits and play areas to foster positive child-parent bonding. We expanded visiting hours, and we offer increased education

and counseling modules focused on activities, nutrition, medical and mental wellness. For example, the clinical #MeToo program provides support for victims of abuse to heal and empower those overcoming abuse and rape through support programs. For Hearts is a trauma recovery-based program offered to the female population that focuses on the impact of sexual abuse on its victims and survivors.

In addition to the internal clinical support, the Department provides inpatient and residential mental health services, occupational therapy, medication-assisted treatment for those with substance disorders, group therapy, sex offender treatment services, and physical health support including yearly mammograms and nutrition education. The Department provides access to a third-party support hotline with clinical experts who provide emotional support to those who are impacted by sexual assault and crisis.

We also hired a Victim Services Coordinator of Gender Responsiveness Services, who is tasked with expanding our programmatic curriculum to ensure that they are trauma-informed in both development and delivery. From a security perspective, we have increased oversight by updating the Edna camera system; adding a Major to second shift; having SID site visits and tours; and developing a Use of Force Committee tasked with providing meaningful review of cases ladder up to the Central Office Headquarters.

After months of planning, we are excited to see additional security efforts come to fruition, including our new body-worn camera pilot program. A first of its kind for New Jersey State Correctional System, the Body-Worn Camera Program compliments the Camera Surveillance

Program, and it provides increased oversight at Edna Mahan, to start. This program was conceptualized in 2019 with hopes to get it off the ground quickly; however, the pandemic, along with infrastructure requirements and vendor contracting challenges, delayed deployment.

As mentioned briefly earlier, we have launched an early warning system, and that system enables us to monitor custody and civilian staff for inappropriate behavioral patterns, to facilitate early intervention course corrective action through training and mentorship to reduce the potential for future incidents or complaints, and to provide staff wellness support. System triggers include internal affairs complaints; civil actions filed against an employee; criminal investigations or complaints; use-of-force complaints that are formally determined or adjudicated to have been excessive, unjustified or unreasonable; sexual abuse or harassment claims against staff by an inmate or employee; insubordination; and unexcused absences, among other indicators.

Both the Body-Worn Camera pilot and the Early Warning System will increase safety for both staff and offenders, while supporting reductions in the allegations of use of force, PREA, and misconduct. Furthermore, the early warning system has a career development component, providing a greater opportunity to build a healthier, stronger workforce. The body-worn camera pilot program and early warning systems are examples of our ongoing commitment to safeguarding our facilities and its people. These initiatives come on the heels of the Department's hiring of a nationally recognized criminal justice consulting firm, The Moss Group, who is charged with technical support and operational practice,

policy development, and implementation of identified solutions related to Edna Mahan.

The Moss Group will partner with the Assistant Commissioner of Women's Services to implement the Department of Justice requirements, which continue to be in settlement discussions. We are close to finalizing the Consent Decree, and once finalized, we will share that relevant information with you. The Assistant Commissioner of Women's Services will also work with you and all of the stakeholders on sustainable solutions to address the female population's needs. We will continue to think outside of the box to identify safety reforms across all of our facilities.

In addition to policy implementation, the Department has successfully implemented various legislative requirements. In 2020, several legislative pieces which pertained to Edna and aimed to protect incarcerated women from sexual abuse and mistreatment took effect. The Department has effectuated many of these laws on or before the effective date of the respective acts; for example, the Department is in full compliance with the Isolated Confident Restrictions Act and the Dignity For Incarcerated Primary Caretakers-Parents Act. We have met the requirements of the Dignity Act with parent-training modules, visitation, trauma-informed care for inmates, and the restriction of staff entering restrooms and shower facilities of inmates of the opposite sex when occupied.

We are also implementing trauma-informed Corrections training for staff, and new inmate intake policies to help place individuals in institutions near their children whenever possible. Other legislation for which the Department complies includes limiting cross-gender strip searches in State correctional facilities. The Department enacted policies allowing

transgender inmates to indicate a gender preference of the correctional police officer who conducts the strip search. As an added protection to ensure the preference is honored, the NJ DOC implemented a non-descript secondary identification card indicating the inmate's transgender status and search preference.

The Department is also in compliance with the law that requires correctional employees to report inmate abuse, and a mechanism for investigating these allegations. All incidents of inmate abuse as determined by investigating are referred to the local Prosecutor's Office, as well as other appropriate outside law enforcement entities.

Additionally, annual staff training helps identify inmate abuse and the obligation to report behaviors that could indicate inmate abuse. And further, the Department has added an internal disciplinary procedure to assess the monetary penalty for employees' failure to report inmate abuse under this Act. We are also prepared to fully cooperate and participate vigorously in the commission to study sexual assault, misconduct, and harassment by staff against inmates in the State correctional facilities, pursuant to SJR-79, once the commission is formed.

We appreciate your shared concern for the wellbeing of those in the State's custody, and appreciate a collaborative relationship that supports incarcerated's unique needs. Our operational insights in tandem with your partnership can help inform a legislative and NJ DOC policy agenda offering transformational change.

I'm here today because it's important for you to have a full understanding of the Department's inner workings. In the spirit of transparency, before the January 11 events, my Department proactively and



in good faith reached out to several members of the Assembly and Senate to open the doors of communication, to provide additional insight into our operations. And that offer still stands.

I'm also here to say that the incident on January 11 does not reflect the New Jersey Department of Corrections. Overwhelmingly, the NJ DOC is a place for those who dedicate their lives in service to others. It's a place for individuals with a commitment to the Department's mission, and for individuals who treat other human beings with dignity and respect, regardless of their crime. I want to recognize the overwhelming majority of staff who take their oath as public servants seriously, as a selfish few have overshadowed their efforts. And I wish to state unequivocally that the Department recognizes them and thanks them for their service.

The January 11 incident and those incidents before my tenure have culminated in this moment, bringing my character into question. My life's work has been in public service. Public service is my calling. I never dreamed that my years in public service would lead me to the Department of Corrections. I have many years of experience in this Department. Some have suggested that my very institutional knowledge is the problem, suggesting that my way of thinking aligns with previous administrators -- and to that I respectfully disagree. My experience in community programs and residential community release programs is behind my passion for rehabilitation and re-entry; and I'm rewarded by seeing individuals leave our system better than they arrived.

My experience has also given me the ability to view the actions -- or lack of actions -- of prior Administrations. It was only in 2018, when the Governor saw me worthy of the Chief of Staff, and ultimately the

Commissioner's role, that I had a seat at the table with the opportunity to effectuate real change. And as Commissioner, I am working to change the culture for both our officers and our inmates, creating programs for both of these populations with rehabilitation and wellness at the forefront.

My Administration is changing the perception of Corrections from a *lock 'em up and throw away the key* mentality, to one that focuses on holistic rehabilitation. And most of all, I'm working to change the culture at Edna Mahan by doubling down on safety reforms.

So as I sit here today, I reaffirm my position that my Administration is ushering in a new era in Corrections. Change is coming slowly but surely, as these things take time -- shifting the culture takes time. But my Administration is up to the challenge. It's the right team for the job, with individuals who operate with integrity and passion for our mission. We are committed to being the drivers of the cultural shift realizing our mission focusing on safety and holistic rehabilitation. And I welcome the ongoing dialogue and partnership that drives sustainable solutions, with the security of the women at Edna, and all of those residing across the State's prison facilities at decorum.

We will work to ensure that all of our employees at the Department live up to these principles. Those who don't will be held accountable.

So I want to thank you for your time, and I'm happy to answer your questions.

ASSEMBLYMAN MUKHERJI: Thank you, Commissioner.

So, in deference to the Attorney General's ongoing criminal investigation, we are going to refrain from asking you about -- directly about

the actual events and the facts surrounding the January 11 incident. And I will ask, along with Chairwoman Mosquera -- we'll ask our colleagues to do the same.

I'd like to start by directing you-- Do you have a copy of the Federal Civil Rights and U.S. Attorney's Office report -- the April 2020 report -- handy, Commissioner?

MR. HICKS: Yes.

ASSEMBLYMAN MUKHERJI: Can I direct you to page 27, section 5, entitled, "Minimal Remedial Measures?" And just let me know when you're there.

MR. HICKS: I'm there.

ASSEMBLYMAN MUKHERJI: Good. Okay, so I want to go through some of these real quick; and let's just check off if they've been done or, if not, what the story is. Some of these are broad, I'm going to try to narrow it to just a few specific bullets, in the interest of time.

So complied with PREA-- Of course, one of the things the Federal court noted was there's a culture of acceptance of sexual abuse at Edna Mahan, and that's how it continues to persist year after year after year. And I appreciate some of the things you noted, particularly that I think the Federal Consent Decree -- did I understand correctly that you said that's imminent?

MR. HICKS: Yes, the Federal Consent Decree with the Department of Justice -- as you know, we have been in discussions with them for quite a while. We have a tentative agreement that is being finalized by the DOJ as we speak, so we expect to have a finalized report in the next coming weeks.

ASSEMBLYMAN MUKHERJI: I know in the past, you appeared before our colleagues in the Senate and you also thought that the Consent Decree was coming. Months have passed. This is different?

MR. HICKS: Yes, when I reported before the Budget Committee, that was prior to the events of the January 11 incident. And so the Department of Justice wanted -- rightfully so -- wanted more information about what took place. But as I've stated, we have a tentative agreement, and I am very confident that I will be able to share with you--

ASSEMBLYMAN MUKHERJI: Okay. Is it just my connection, or did the Commissioner -- did we lose you?

ASSEMBLYWOMAN MUÑOZ: He froze.

ASSEMBLYWOMAN SWAIN: He's frozen.

ASSEMBLYMAN MUKHERJI: Commissioner? (no response)

Okay. While we're waiting to get the Commissioner back, can we reach out and see-- Okay.

By the way, I do want to acknowledge Assemblyman Auth has joined.

ASSEMBLYMAN AUTH: Yes, good morning, Chairman, thank you very much.

ASSEMBLYMAN MUKHERJI: I want to note his attendance for the record.

UNIDENTIFIED SPEAKER: He jumped out. It looks like he-- Hopefully he's trying to log back in.

ASSEMBLYMAN MUKHERJI: Okay.

ASSEMBLYMAN AUTH: Chairman, while we're waiting, can I ask you a quick question?

ASSEMBLYMAN MUKHERJI: Sure.

ASSEMBLYMAN AUTH: Is it within bounds to discuss the injuries that were sustained by the prisoners?

ASSEMBLYMAN MUKHERJI: We will have testimony in the afternoon on -- where January 11 can be discussed with the advocates. But the specific facts of that investigation -- of that day we are deferring to the Attorney General's Office on the criminal investigation. So the specific facts surrounding January 11, which are not public-- The Commissioner could be called, for example, and cross-examined as a witness -- if he were to announce confidential information -- by a defense attorney for one of the defendants; that's just an example. So we're not, you know, going to discuss January 11 with the Commissioner. He has said--

ASSEMBLYMAN AUTH: Okay, thank you very much for the clarification there. I appreciate it.

ASSEMBLYMAN MUKHERJI: No problem, Assemblyman.

Okay, well while we're waiting for the Commissioner, why don't we have-- Mr. DiBenedetti, are you still on?

MR. DiBENEDETTI: Yes, sir.

ASSEMBLYMAN MUKHERJI: Okay. Let's talk about the Dignity Act and some of these remedial measures as they pertain to your Office, the Office of the Ombudsperson.

And welcome, and thank you for appearing as well.

MR. DiBENEDETTI: Thank you.

ASSEMBLYMAN MUKHERJI: Sure. So, we've got, of course, a number of things that the Dignity Act did. Can we talk about the

implementation of some of the requirements, some of the provisions of the Dignity Act? And do you happen to have a timeline or some framework related to the Act handy, where we can go down the list?

MR. DiBENEDETTI: Yes, certainly.

ASSEMBLYMAN MUKHERJI: Okay. So inmates who have minor children that are in custody of the DOC -- they were to be located as close to the child's residence as possible before sentencing. Is that being done now?

MR. DiBENEDETTI: We have not received any complaints that it's not being done, so -- that's really done by Corrections as far as determining where the inmates are housed. And if we did receive any contacts regarding that we would certainly address that with Corrections; but we have not received any complaints of that nature.

ASSEMBLYMAN MUKHERJI: Do the inmates know they have a right to complain? Because I know--

MR. DiBENEDETTI: Yes, they do.

ASSEMBLYMAN MUKHERJI: Okay, because I know that one of the things we noted in the report was that they weren't aware in many instances of their rights under PREA to report sexual abuse, which is one of the most basic--

MR. DiBENEDETTI: All that information is in the inmate handbook that they're given when they first start their incarceration. As the Commissioner mentioned, there are signs all over the facilities with contact numbers, the PREA hotline numbers, the phone numbers -- the toll-free numbers for the Corrections Ombudsperson Office. They can contact

us toll-free, they can write to us; we have mailboxes in the facilities. So they have many avenues, and their families can also call the Office.

ASSEMBLYMAN MUKHERJI: So we're going to-- Some of us are going to tour Edna Mahan on the 19th; I'm curious about the signage. The fact that it's in a handbook that, I don't know, might be 200 pages long isn't terribly reassuring, you know. They should be -- it should be affirmative. They should be apprised of all of their rights, particularly when it comes to grievances when it comes to reporting abuse or sexual abuse, in some manner that gives them assurance that they won't be retaliated against.

But since that's probably not a true statement, given history and the fact that there is an expectation they probably will be retaliated against, that's another area that we're going to need to come to.

The handbook aspect of the response is not terribly reassuring to me. How else are they apprised of their rights, both under PREA and the Dignity Act?

MR. DiBENEDETTI: I'm sorry, by this Office or by Corrections?

ASSEMBLYMAN MUKHERJI: By Corrections, and how do you hold Corrections accountable that they're doing that, which is I think the function of your Office?

MR. DiBENEDETTI: Well, the function of our Office, right, is to address any complaints or concerns regarding the living conditions and treatment of the inmates, okay? So there's a lot of misconceptions about this Office. We are not part of the Department of Corrections, we do not report to the Department of Corrections. We are separate.

ASSEMBLYMAN MUKHERJI: And that's a function of the Dignity Act, right?

MR. DiBENEDETTI: That's been separated since the Office of the Public Advocate was abolished. Then we are under the Governor's Office, considered to be in, but not of, the Department of Treasury.

ASSEMBLYMAN MUKHERJI: So all these concerns about a lack of independence before last year -- and we're going to talk about the implementation of the law -- in terms of the watchdog function; are those unfounded because-- Well, how long have you been in your job, sir?

MR. DiBENEDETTI: Since 2009.

ASSEMBLYMAN MUKHERJI: Okay. Okay, how would you describe your job?

MR. DiBENEDETTI: Well, my job-- We have-- Right now we have a total amount of staff of 10 individuals, I have 6 assistant Ombudspersons. We are charged with covering 11 facilities--

ASSEMBLYMAN MUKHERJI: That's not-- Thank you, not so much the composition of your Office. What's your job, what do you do? If I met you at a bar and asked, "What do you do?" how would you answer?

MR. HICKS: Chairman, I hate to interrupt, but I just want to make sure you're aware that we're back, following technical difficulties.

ASSEMBLYMAN MUKHERJI: Thank you, thanks Commissioner. We'll come back to you in a few minutes. I just started down a road with the Ombudsperson, and now I have more questions; so if I could just walk through this. I'm sorry, sir.

Go ahead, sir.



MR. DiBENEDETTI: That's fine. If I had to answer, like I said, we handle complaints regarding the living conditions and treatment of State-sentenced inmates who are housed in State prison facilities.

ASSEMBLYMAN MUKHERJI: Okay. Prohibiting the isolated confinement of pregnant woman, that was one of the requirements of the Dignity Act. Is that something that has been done, and is it part of your function to audit whether that's been implemented?

MR. DiBENEDETTI: We have not audited whether that's been implemented, no sir.

ASSEMBLYMAN MUKHERJI: How about the policies for eliciting and responding to and resolving inmate complaints?

MR. DiBENEDETTI: Yes.

ASSEMBLYMAN MUKHERJI: Okay. How about the Statewide toll-free number or collect call number website for inmate complaints, or complaints from their families if they want to make them?

MR. DiBENEDETTI: Yes, sir--

ASSEMBLYMAN MUKHERJI: That was directly a requirement on you, as the Ombudsperson, right?

MR. DiBENEDETTI: Yes. We have three toll-free numbers and we have updated our website. We are now posting facility inspections on the website as they are completed.

ASSEMBLYMAN MUKHERJI: How about monitoring compliance with applicable Federal, State, county, and municipal laws, rules, regulations, policies related to the health, safety, welfare, and rehabilitation of inmates?

MR. DiBENEDETTI: Yes.

ASSEMBLYMAN MUKHERJI: Do you think you were doing that on January 11 -- without addressing the specific facts of that day?

MR. DiBENEDETTI: I was not involved in that incident; we were not aware that they were doing a search at 11:00 at night. So we did not have staff at the facility at that time.

ASSEMBLYMAN MUKHERJI: Well, you said you had this job since 2009. The Feds tell us in this report that there have been systemic, repeated -- a pattern of sexual assaults and abuse going on throughout the entirety of that time. If you were monitoring compliance with all of these laws and rules related to the health, safety, welfare, and rehabilitation of inmates, are you telling me -- are you suggesting that you are monitoring effectively, if all of these things occurred? At least according to the Justice Department's report? Do you dispute the report?

MR. DiBENEDETTI: Sir, we don't have staff in the facilities 24 hours a day. We are there as often as we can to address the complaints and tour the facilities.

ASSEMBLYMAN MUKHERJI: How about the accountability reports and the inspections that are to be conducted and provided to the Legislature and posted online? Are those--

MR. DiBENEDETTI: Yes, we've just recently started those, we have a few posted online. We are doing them once a week and they will continue to be posted online.

ASSEMBLYMAN MUKHERJI: Okay. Can you just tell me your website? I'm going to turn back to the Commissioner for a moment, but I just -- can you tell me what your website is?

MR. DiBENEDETTI: Yes, if you Google Office of the Corrections Ombudsman, it comes right up.

ASSEMBLYMAN MUKHERJI: Okay--

ASSEMBLYMAN DePHILLIPS: Mr. Chairman, if I may?

ASSEMBLYMAN MUKHERJI: Sure.

ASSEMBLYMAN DePHILLIPS: Are we going to be able to question this witness later?

ASSEMBLYMAN MUKHERJI: Absolutely.

ASSEMBLYMAN DePHILLIPS: Okay, I just wanted to confirm he was on the schedule for later.

ASSEMBLYMAN MUKHERJI: Yes, Assemblyman, he -- I suspect that he'll remain so long as the Commissioner is here.

UNIDENTIFIED SPEAKER: Thank you.

ASSEMBLYMAN MUKHERJI: And for your own information, sir, your website is *nj.gov/correctionsombudsperson*.

So, all right, Commissioner, we turn back to you for a moment. Let's go through the remedial measures.

The practice of automatically transferring prisoners who report sexual abuse to the TCC or other segregated housing in and of itself -- until you have completed and documented an assessment of any alternatives, as the report said; and that there's no other alternative -- I mean, to get isolated automatically seems punitive and a disincentive to report abuse. Would you agree, Commissioner?

MR. HICKS: Couldn't agree with you more, which is the reason that was one of the first things that we changed back in 2018 after I assumed this position.

We recognize that underreporting crimes of this nature is not just persistent in correctional facilities, but also nationwide, so we wanted to implement policies that would encourage individuals to report. And segregating someone who makes an allegation, in my opinion, is punitive.

So we have changed that; it is not automatic. As a matter of fact, we do everything we can to keep the individual who has made the allegation in the housing setting. Every case is case-specific; if the individual wants to move, we take that into account, but we do not automatically transfer someone who makes an allegation out of their cells. We do separate -- we do separate the person who made the allegation and the alleged perpetrator, but typically it is not the individual who made the allegation.

The other difference that we implemented was that if we do have to separate an individual, we make sure that they have access to programs and services. Prior to this Administration, they would be removed and they would also lose those services, their property, and their ability to make telephone calls. So we wholeheartedly agree with that, that's one of the changes that we implemented prior to this report coming out.

ASSEMBLYMAN MUKHERJI: So that's done. If you do have to hold them in TCC after an inmate reported sexual abuse, because there's no other way to protect them from retaliation, do they have access to privileges like visitation, commissary, programming, and vocational opportunities, like the report suggests?

MR. HICKS: I just want to clarify that we no longer have TCC in the Department of Corrections. What we have-- At all. We removed that, so we don't have TCC.

ASSEMBLYMAN MUKHERJI: Solitary is done?

MR. HICKS: We do not have solitary confinement, that's correct.

ASSEMBLYMAN MUKHERJI: Confidential option for reporting sexual abuse and sexual harassment anonymously, if requested, including options that are completely independent from -- no offense -- you know, independent of DOC.

MR. HICKS: So we are in compliance with that. One of the things that I mentioned earlier is that I convened a SAFE task force; this was our task force back in June 2018 -- again, prior to this report coming out two years later. We recognize that to create this environment of reporting that we need to have multiple mechanisms in which inmates can record. And not just inmates -- staff as well.

So we have that in place, individuals can report via our JPay system; we have confidential hotlines to our Special Investigations Division; we have external hotlines to our emotional support services; we even allow third-party reporting; and they are able to reach out directly to the Office of the Ombudspersons as well.

So we have put numerous mechanisms in place for anybody to report, and every report that's made warrants an immediate referral and an investigation.

ASSEMBLYMAN MUKHERJI: So I'm going to skip down a few bullets; let's talk about the cameras and the security. Right, we've read about officers using searches to grope inmates' breasts, require them to expose genitalia, go into the showers, go into the restrooms and facilities

when an inmate is using the facilities; these are all contrary, of course, to law and to the rules governing their conduct.

And body-worn cameras, as well as cameras and footage in the NVRs -- or the archiving going back a number of days, at least 90 days I think -- have been something that you've been discussing with the Legislature the Department has been discussing with the Legislature, for three, four years. We heard about -- there was a \$700,000 camera project, there was a \$3 million camera project-- How big is Edna Mahan, roughly, in terms of square footage and acreage? Just if you know off the top of your head.

MR. HICKS: Specific to acreage, I can't tell you. However, it's a compound; and you'll see on the 19th. It consists of multiple buildings, we have a minimum, a medium, and max compound. I don't know the specific acreage, but you'll see -- it's a good size, it's very large.

And so, to answer your question, Chairman, on the cameras, I can tell you that the camera project is scheduled to be completed in September of this year. It would have been done sooner, but because of COVID, when we shut down the facilities and we weren't allowing contractors--

ASSEMBLYMAN MUKHERJI: Meaning September of 2021, it'll be done--

MR. HICKS: Yes, of this year.

ASSEMBLYMAN MUKHERJI: So maybe when we come see the facility, we'll get a better idea of the size. I mean, if you have a couple of hundred thousand square -- a quarter million square feet of facilities, times four or five buildings over acres, and you want to get the surveillance

of everywhere in the interior, and most of the perimeter and the exterior, that's an eight-week project -- I know from my civilian businesses. But I don't have to deal with public sector procurement rules and things like that. I just don't understand how it takes four years to stand up all these cameras, and maybe that's something you can help with.

Do you, right now, have the capability of retaining the video data for at least 90 days, and the capacity to store selected video -- for example if there's a complaint or a grievance filed by an inmate -- and hold onto that indefinitely?

MR. HICKS: We do, and -- we do now. And to just answer the question about the cameras. These are state-of-the-art camera upgrades; and I understand where you're coming from. I feel confident that in September we will be completed. We have, to date, over 300 cameras that have already been installed; and of course, the Body-Worn Camera Project that I alluded to, that's scheduled to start May 1.

So between the body-worn cameras and the upgraded cameras at the facilities, we feel like we have taken the necessary steps to provide the appropriate coverage.

ASSEMBLYMAN MUKHERJI: What happens-- Are there still glaring blind spots between now and then, like in the stairwells and in some of the other areas identified by the Federal Civil Rights investigators?

I'm just wondering: What happens if someone gets raped by a guard between now and May 1, or between now and September or October, and is there video surveillance deterrence to this kind of thing?

MR. HICKS: So, I'll answer-- Let me answer the question--

ASSEMBLYMAN MUKHERJI: Or you're beat up in the course of an extraction, or in retaliation for a complaint filed after an extraction gone terribly wrong -- these are hypotheticals, not referring just to January 11. But just-- You know where I'm going. What happens between now and then; are the gaps covered to your satisfaction for now?

MR. HICKS: Sure. I will say that in terms of blind spots -- and again, you'll see this when you come take your tour -- that the cameras that we have already implemented, they cover their target and they cover many of the blind spots that are at the institutions. If there's still blind spots, we have extra surveillance, extra officers; we have rovers, we have supervision, staff; we have SID that's currently always on site.

So to answer your question, if there was an incident that were to take place between now and when the camera project is completed, I feel comfortable and confident that we have the appropriate surveillance right now that we need. But we have retained an expert, as I mentioned, the Moss Group. One of their tasks and directions is that they're going to be looking at our cameras and camera placement, and they will be making additional recommendations for us.

But between the body-worn cameras, the 300 cameras that we have right now, the fact that we have, you know, extra staff, SID, I feel comfortable that we are doing what we can to protect the women in there.

ASSEMBLYMAN MUKHERJI: IHU -- would you characterize that as being a light replacement of TCC, or is that unfair?

MR. HICKS: I think light replacement -- I don't know if I would say a light replacement, but we do utilize investigative housing on a temporary basis; it is not to be used as a long-term solution. I don't know if



I would say light replacement, because when we had TCC, as I mentioned, we weren't getting -- it was seen to be punitive, even though it wasn't supposed to be.

ASSEMBLYMAN MUKHERJI: If an inmate-- I'm talking about an inmate who makes a complaint. Could they be transferred to IHU if they've made a complaint, if it's for their protection? And if so, the question I asked before from the remedial measures in the report -- once they're transferred, because there's no other alternative to keep that inmate safe from further abuse or from retaliatory actions -- will they have access to visitation; will they have access to commissary; will they have access to vocational opportunities? Is it truly nonpunitive and just protective of that inmate who has filed a complaint?

MR. HICKS: Absolutely. And that was the entire intent with us making those changes. We did not want to make these housing units punitive for anyone who made allegations. So it's not punitive, they have access to phones, JPay, out-of-call time -- all services.

ASSEMBLYMAN MUKHERJI: Okay. And they're not isolated when they're in the-- How is it different from the old solitary; how is it different from the TCC?

MR. HICKS: The biggest difference, Mr. Chairman, is the fact that they do have this access to the services that they did not have when they were in that previous housing. So I could see why someone would not want to report if they are being removed from general population or from their cell, and at the same time we're saying that we're doing this for your protection, but we're taking away your access to these services. So that is

the biggest difference. They have visits, they have phone, JPay, out-of-cell time -- because it's not punitive, and we so want to make that clear.

And the other thing I want to throw in, as well, is that not all the time will we actually even remove the individual, you know. It's a case-by-case basis, if the individual feels that they are safe in their current cell; if they're sharing the cell with another inmate, they may remove that inmate. But it's on a case-by-case basis.

ASSEMBLYMAN MUKHERJI: A few more questions, and then I want to turn it over to Chairwoman Mosquera to talk about the Dignity Act further and some other questions of you. I am going to come back, after some of my colleagues have had an opportunity to ask questions, to ask a few more questions of you, Mr. DiBenedetti. And in the meantime, I'm going to check out your website and see which of the accountability reports have been published and where we're going with that -- and that's for the Ombudsperson.

So, Commissioner, do you think SID is sufficiently independent to be able to do its job as an internal affairs arm of the DOC? Do you think that SID is able to do that job while it reports to you? Not saying, not suggesting that you would exert any influence on SID, but if they-- It seems historically that certain things -- that there'd been some reluctance to refer for prosecution incident after incident after incident, based on inmate complaints. That's what, you know, certainly the Federal authorities have suggested.

So do you think SID is able to be as effective as it can be, and how do prisoners know about their rights under PREA? How do inmates know about their rights under the Dignity Act -- because we know from the

report that they didn't. And the Ombudsperson punted that back to you because it wasn't part of his job to monitor that. Which, by the way, in reading certain provisions of the statute -- enabling statute -- further, I disagree with. But we can come to that later.

MR. HICKS: So to answer your questions, I'll address them point by point: Regarding SID, their entire function hinges upon their ability to be independent. And so do I believe that they are independent? The answer is yes. They receive specialized training; they attend the DCJ Academy for 26 weeks. They are trained on how to do sexual abuse investigations, detailing the methods for conducting sexual abuse investigations in confinement settings; PREA; gender-informed training.

So they are expected to be independent -- as you said, I do not, I never get involved in the investigations when we get PREA allegations. Those investigations and allegations are referred to the Prosecutor's Office; SID works in conjunction with them. As it pertains--

ASSEMBLYMAN MUKHERJI: Can we stop, and just ask one question about that? I'm only asking for your observation if you're able to provide it, because I understand this is not your function. It's not your function to prosecute anybody.

I've heard from a number of people in the course of interviewing them in preparation for this hearing, and the legislation that we might consider in response to some of the things we learned, that the Hunterdon County Prosecutor has historically been reluctant to prosecute, relative to the number of complaints that it has received over the years; that perhaps another body would have been able to substantiate.

And we see how swiftly the Attorney General acted when they found out about what happened on January 11, and that's just -- that's just in the immediate aftermath. You think there's anything to that?

MR. HICKS: I believe that we should always strive to have swift and expedited reviews in investigations -- specifically when it comes to these types of allegations. I can tell you that our relationship with the Hunterdon County Prosecutor's Office has been a positive one. We do refer at least--

ASSEMBLYMAN MUKHERJI: Would you call it cozy? Could that be a problem -- is it cozy between the Office and the folks being investigated, or that's not what's at issue?

MR. HICKS: No, I wouldn't characterize it as cozy at all. We do refer every allegation to them, and so it's a cooperative partnership -- and they understand that their role is to conduct a criminal investigation, we understand what our role is.

But to your point of, you know, oversight and independent investigations and impartiality, I would support anything that is going to lend credibility -- more credibility to what we currently do; to answer that question.

ASSEMBLYMAN MUKHERJI: Okay, and then you were finishing the SID component of the question. Sorry.

MR. HICKS: Yes. And then I was going to say, in terms of how are our offenders made aware of what their rights and responsibilities are-- One of the things that our internal SAFE task force did is, we had to improve the inmate education program as it pertains to PREA. And so, you know, face-to-face meetings -- we met with every offender at the facility; we

provided orientation and we updated our materials. We have people touring -- staff members touring, constantly letting individuals know how they can report, what their rights and responsibilities are.

So we take that aspect very seriously, and it's one of the ways that we continue to change the culture. We have to let people know what's available, so we do that.

ASSEMBLYMAN MUKHERJI: I've taken more than the time that I've allocated for myself, so at this time I'm going to turn it over to Chairwoman Mosquera to take it from here.

ASSEMBLYWOMAN MOSQUERA: Thank you.

Commissioner Hicks, I appreciate your testimony; however, I have to -- in some points, I do have to disagree.

It seems like you're doing a lot of things for the Department as a whole, but it seems like in particular for this facility, this women's prison, not enough is being done. And I hope that you acknowledge that.

My first question would be: How often have you visited the Edna Mahan as Commissioner?

MR. HICKS: So I visit all of the institutions at least on an annual basis. Edna in particular I would have to get you a specific number, but I have been to Edna Mahan multiple times, taken tours, met with staff. I was just there, I think, three weeks ago, meeting with our expert that we've retained -- I mentioned the Moss Group -- on site, taken a tour, debriefing with them.

So it is a priority. And if I'm not there, my staff is there; we have Directors of Operations; we have Assistant Commissioners; we have

Deputy Commissioners. So my executive team and myself, we are present at the facility.

ASSEMBLYWOMAN MOSQUERA: Okay, thank you for that. But I guess prior to -- and I'm not, again, I'm not going to the January 11 incidence, which would obviously lead you to go to the facility more often than not -- but prior to that. Have you been there before these incidences?

MR. HICKS: Absolutely. Yes.

ASSEMBLYWOMAN MOSQUERA: Okay. I know that you have, in your testimony or in your statement, mentioned that you have been with the Department -- you've been with the Department since 2007, is that correct?

MR. HICKS: That's correct.

ASSEMBLYWOMAN MOSQUERA: Okay. So have you-- Since 2007, have you known about these allegation at the facility? Were you aware of these allegations at the facility?

MR. HICKS: I'm aware -- I'm aware of the history, certainly, of Edna Mahan. I was aware of that when I took this position. As I mentioned in my remarks, even as the Chief of Staff or any of these other positions, I never had operational control of the Department. And so, you know, there's a difference between being a director and being a Commissioner. And as I've mentioned, this is the first time since 2018 where I had the opportunity to address issues that I have known have been in existence for decades -- it's well documented.

And that's the reason why in 2018 the first thing that I did was to establish our internal task force to tackle these issues. This is in the

midst of the beginning of the DOJ investigation, which we welcomed -- that happened around the same time I assumed this position. The investigation started in April, I came onboard in May of 2018. The report came out two years later, April 2020; by that time the SAFE task force had already implemented numerous of these policy initiatives that are discussed.

So to answer your question: Yes, it's well-documented, the history of Edna Mahan. But 2018 was when I had the opportunity to implement change.

ASSEMBLYWOMAN MOSQUERA: While you-- I guess you did serve as Chief of Staff to the prior Commissioner, is that correct?

MR. HICKS: Yes, for six months.

ASSEMBLYWOMAN MOSQUERA: For six months. In those six months, did you ever get an opportunity to tour the facility with the prior Commissioner?

MR. HICKS: I toured the facility on my own, I didn't tour the facility with the prior Commissioner. But even as Chief of Staff for that time, I made it a point to go to Edna Mahan, I did. Not only did I tour the facilities, but I also had the opportunity to meet with the union officials to talk about what we're seeing at the ground level. Because it is staff, and it is inmates, and it is Administration.

So yes, I had the opportunity. I don't believe that I ever toured with the previous Commissioner.

ASSEMBLYWOMAN MOSQUERA: Well, thank you for that.

How often -- now, again, prior to the January 11 incidence -- how often do you communicate with the leadership at the facility?

MR. HICKS: So we are in constant communication with the leadership at the facility. And by constant, daily. Daily. If it's not me, it is certainly my Deputy Commissioner or my Assistant Commissioner, or our Director of Operations. We have a constant link to what's happening at Edna Mahan, and that's on purpose. It's the reason why I modified the hierarchy -- hierarchical structure of having that facility report directly to the Deputy Commissioner, the Deputy Commissioner of Operations.

They oversee Edna Mahan, and that's different than how we have it structured with every other institution -- but that's on purpose. So there is executive-level involvement at every step of the way. We have very good relationships with the Administration there, and we're very involved with what's going on.

ASSEMBLYWOMAN MOSQUERA: So you are aware of the allegations and the culture of that facility?

MR. HICKS: Absolutely. Absolutely aware. Not only aware, but have put things in place to change the culture. This is not, we don't know what's happening or what happened in the past. We address these issues head-on, and that's the reason why, in 2018, the first thing I did was to establish this task force to make changes.

ASSEMBLYWOMAN MOSQUERA: Okay. How many Officers, Correction Officers, work at this facility? And I'm just focusing on this particular facility.

MR. HICKS: Sure. So we have 161 male officers-- I'm sorry, 151 male officers and 152 female officers. So that's a total of -- I'm trying to get a calculator -- that's a total of--

ASSEMBLYMAN JOHNSON: Sounds like 302.



MR. HICKS: Something-- Yes, 156, excuse me -- 156 male officers, 158 female officers for a total of 314 officers at Edna Mahan at this time. Our inmate count is 374, approximately.

ASSEMBLYWOMAN MOSQUERA: Okay. How many civilian employees are employed by Edna Mahan?

MR. HICKS: We have approximately 101 civilian staff employed at Edna Mahan; 51 of those staff are females.

ASSEMBLYWOMAN MOSQUERA: Just going back to your remarks. You did briefly mention about female recruitment. Can you explain a little more about that -- are you having difficulty getting female Correction Officers?

MR. HICKS: I will say that it is a challenge, and I will explain why. First of all, we have-- One of the things that we did under this Administration is that we increased the number of gender-restrictive posts, as I mentioned in my remarks, meaning that these posts are all female -- female posts. And we did that on our housing units, our visiting officers, the individuals who are conducting shift searches. We did that because we felt it was appropriate, it would minimize the risk of malfeasance, and that was one of the first things that we did.

I bring that up because when you gender-restrict posts -- which we believe is the right thing to do -- it does impact your staffing. And it impacts the number of available staff that you have.

So to answer your question, recruiting females in law enforcement in general is challenging. Certainly in Corrections, it's even more difficult. The other problem is that the facility location where Edna is located is western New Jersey, bordering the state of Pennsylvania -- it's not

centrally located. And so you have individuals who need to travel if they live down south or if they live, you know, in central New Jersey. Traveling back and forth to Edna Mahan becomes problematic.

So it is a challenge. What we've tried to do and what we continue to do is that we host recruitment fairs; obviously because of COVID we've had to go to a virtual recruitment. But hopefully by this spring we'll be able to go back to in-person recruitment in the counties, and working with our other law enforcement partners.

But it is a challenge.

ASSEMBLYWOMAN MOSQUERA: Thank you.

What is the officer-to-prisoner ratio at Edna Mahan?

MR. HICKS: So as I mentioned, we have 374 inmates, and 300 and I think -- I'm trying to remember the number I gave you, I'm sorry, I think it was 314 officers. So those are the numbers.

ASSEMBLYWOMAN MOSQUERA: So is it like-- I guess, let me clarify. So we have one guard for every two, three inmates? That's what I was interested in knowing.

MR. HICKS: No, it's-- So the way that it's set up, it's based by shifts. We have three shifts throughout the course of the day. I wouldn't say that it's one officer -- we don't say guards, we say officers -- one officer per inmate, because each post covers different areas. It's not like one officer is assigned to an inmate. We have multiple jobs, multiple posts -- housing unit officers, visit officers -- so it would be difficult for me to-- It's not a one-on-one type situation.

The best I can explain it is we do have those 374 inmates and 314 officers. It's really rare that we would have, in terms of closeness, in

terms of the number of officers and the number of inmates that we have, but -- I think that's the best that I could explain it.

ASSEMBLYWOMAN MOSQUERA: Okay. What type of training do these Correction Officers undergo?

MR. HICKS: So the training, in my opinion, is one of the most important things that we can do as a Department. Corrections -- not just in New Jersey but across the country -- is changing, and so we have to keep up with the times. And a lot of the things that we're talking about, our best practices, are evidence-based. And so we invest heavily in training.

As it pertains specifically to the types of training that they get, I had mentioned that they are mandated to get 20 hours of training -- our officers -- which they do. Four of those hours of the training are dedicated to sexual awareness, sexual abuse prevention; so trauma-informed care, the officers get that; Prison Rape Elimination Act, they get that; undo familiarity; same-sex strip searches and transgender persons; manipulation awareness; harassment prevention; gender identity -- they get that.

We also, in addition to that, have mandated specific training for the individuals that work at Edna. We worked with the National Institute of Corrections, NIC, back in 2018 to actually help us develop gender-responsive training that we rolled out to all civilians and custody members at Edna Mahan. And not just them, but any of our specialized units that work with the female population.

So the training is robust; the training that was required under the Primary Caretakers Act we are in compliance with; as I stated, 5,200 Officers have received that training. But it's something that we will continue to invest in. Because as Corrections continues to evolve, we have

to make sure that we're at the forefront and incorporate that into our training.

ASSEMBLYWOMAN MOSQUERA: Thank you for that.

Now, when was this robust training implemented? Is that something recent when you became a Commissioner? Is this part of your reform policy? Or is it something that has been in place for a while?

MR. HICKS: Both. So there is the training component that was outlined in the Primary Caretakers Act; that calls for the 20 hours of that mandated training, plus that 4 hours of specialized training. That was because of the Act, and we have implemented that.

But prior to that, the training that I mentioned, those were all precipitated by this Administration -- 2018. We were the ones that reached out to the National Institute of Corrections. We were the ones that helped to work with them to develop a Gender Responsive Training. We were the ones to train our staff. We were the ones to bring our management onboard and to train them as supervisors.

So we welcome the training; I welcome the trainings. Whether it comes from the Legislature, whether it comes from what we're doing here at the Department, you can never have enough training. It's going to be in the best interest of our offender population as well as our inmates -- as well as our staff, excuse me.

ASSEMBLYWOMAN MOSQUERA: It's interesting that you say that, because according to the DOJ report -- which you know -- the summary of page one says, "From 2016 to November of 2019," and I'm reading this from the report, "five Edna Mahan Correction Officers and one

civilian employee were convicted or plead guilty of charges related to sexual abuse of more than 10 women under their watch.”

So it seems to me that even though you have all these great intentions, it falls short of what the reality is. You’ll have individuals taking liberties against women under their care. And I am just really-- I know that this-- I know that you’re very passionate, you’re very passionate about your job and passionate about making change, and you did mention the change of culture takes time.

What are the resources that are lacking, in your opinion, that makes this your -- I guess your willingness to change the culture at this facility -- makes it difficult or--

MR. HICKS: Sure, I understand what you’re saying, and I will address that.

I want to address-- Before I get to the resource issue, I do want to address the culture issue for a second. I knew what I was walking into when I assumed this position. As you said, decades of abuse. And so the culture change comes from setting a clear tone from the top -- which has been done -- making it very clear to everyone that we are a zero-tolerance organization. And then with the training, as we’ve talked about, educating the offenders.

But probably more importantly, when incidents do happen, we’re taking swift and bold action. And in my opinion, all of those things together is how you change the culture. You had mentioned previously that there was a code of silence. And that is not what we are promoting here.

So I want to talk about that culture, because it does take time. But that doesn’t mean that you still don’t put things into place to try to

change them. And as far as the abuse occurring between 2015 to 2017, you know, I'm certainly aware of that. I wasn't in this position then. But individuals have to be disciplined. You can get all the training that we offer, and at the end of the day if someone decides to violate clearly established policies and procedures, then you have to take action.

And that is what we are doing. And that's what we have done. So I think that those are the ways in which you change culture. In terms of resources, I can tell you that we have utilized the resources of the Department to our best ability. I can't come to you right now and say that I have a need for X, Y, and Z -- except for the fact that the recruitment of female officers, as I mentioned, that is a challenge.

We also have the Moss Group, as I mentioned, they'll be working with us. And so they will be making recommendations, as well, to us. And perhaps once they have had a chance to come and provide some insight, then I'll be in a better position to say, "Here's what I believe the Department needs." But for right now, I would say that our biggest challenge, as I mentioned, has to do with recruitment. And every other resource, I believe we have right now.

ASSEMBLYWOMAN MOSQUERA: Thank you, Commissioner Hicks. I do believe that my time is up; I might have gone a little over.

But I will turn it back to Chairman Mukherji to open it up for other questioning.

Thank you.

MR. HICKS: Thank you.

ASSEMBLYMAN MUKHERJI: Thank you, Chairwoman.

I would like the Judiciary Committee's Vice Chair, Assemblywoman Murphy, to ask her questions next. And she will be followed -- if it's all right with you, Nancy -- with Assemblywoman Muñoz.

ASSEMBLYWOMAN MOSQUERA: That's fine.

ASSEMBLYWOMAN MUÑOZ: Definitely all right with me.

ASSEMBLYWOMAN MURPHY: Thank you, Chairman.

Commissioner Hicks, welcome. It's good to see you again. I know we had an opportunity to talk, about a month ago, about some other issues which I'm sure we'll get to at some point today; and hopefully we'll continue those conversations about the re-entry.

But I just wanted to go through-- We're going to back up a little bit, because I agree with you -- the culture needs to be addressed here. We can change all of the upper tier levels of management; we can change and add more cameras; we can change more buildings; we can change officers. But the culture -- you're absolutely right -- it does take some time to effectuate a proper culture.

And the reason why I'm bringing this up is, you and I-- You've appeared in front of the Budget, so we're met on several occasions with the Budget. And one of those -- in each of the testimonies, one of the biggest messages that you have been saying, including in today's, in your testimony -- which I really do believe, sir, that you want to make a difference -- you want to change the culture, and you want to make sure that what happens here in Edna Mahan -- along with all of the other prisons and correction facilities -- remains safe. I really do believe that.

But I think it's hard, and I think that one person alone cannot make it. So I do believe there's some communication issues which I hope to get into a little bit with you.

But one-- And I want to repeat this, because in every single testimony that you have done since 2018 when you first came in -- and if you remember correctly, we on the Budget had said, "You know what, we're going to give you a little bit of leeway because you just got here; even though you were working under the previous Administration with the former Commissioner, we're going to give you a little leeway."

But now we're still dealing with the same issue we dealt with in 2018, and I don't believe that the improvements are happening. And I'm hoping that, as we move forward, we can really understand exactly what needs to be done not only in the Legislature, but through our Administration in the State, to make sure we get a healthy correction facility.

Now, I'm going to read a quote from you -- again, it has been in every single statement, so I'm not reading anything that you haven't said -- and that is, "Despite the challenges, we remain committed to ensuring the health and safety of our staff and those in our care, while remaining steadfast in the Department's mission of operating safe, secure, humane correction facilities."

And sir, I just want to say before I start my questioning: I read this report, and I'm hoping that you will agree with me that reading this report from 2020 from the DOJ is horrible. This is a report that should never be written about any correction facility ever -- or any facility under the State of New Jersey or anywhere in this nation.



Some of the things that I read in here, I have to be honest with you, were very disturbing; and it takes a lot for me to really be disturbed by a lot. And usually I can take on a lot here, but by the end of this report, I have to tell you, it was very disturbing.

But with that being said, Commissioner, I just want to ask you a few questions, if you don't mind. So considering that you've been talking about the culture of acceptance -- you want to change that -- in 2018 you appeared before the Budget, along with whatever other Committees you have attended over the last few years. All with keeping that in mind, tell me, besides the physical improvements that you are indicating that are being made, talk to us about the task force. Because that was 2018 that you said you were putting that into effect.

Also, you were putting in effect the Advisory Board of Trustees -- you were re-establishing the Advisory Board of Trustees. Talk to us about that role. And when they see that there are issues, how do those recommendations and/or issues that come down from them get implemented -- or reviewed, I should say? Is it from you, is it from management-- Tell me, how does that come about getting from them to you?

MR. HICKS: Sure thing. And thank you, Assemblywoman, for that. Let me start off by saying that, yes, I have repeated my commitment to the culture change because I am committed to it, and I have been since I started this. So that has been a very important piece and component of my role here as Commissioner, and it will continue to be in the future.

I will say that, as far as the SAFE task force is concerned, as I mentioned, they really were the conduit to implementing a lot of these

changes that I spoke about. So, for instance, when it comes to improvements to our PREA education program, you know, the SAFE task force was the conduit to making sure that our handbooks and literature were updated; that we were improving our gender-specific videos that we were using for orientation. They were the conduits for ensuring that our external hotline that we have up and running for emotional support counseling was working; that our direct and confidential hotline to SID was working.

They were the ones who were doing things such as, on the family side, making sure that we had appropriate child-friendly areas to foster positive interaction. That came through the SAFE task force. They were the ones to recommend that we expand our visiting hours at our facilities. And this is before, you know, legislation passed. And I also want to remind everyone that this was -- this all happened prior to DOJ issuing that report. I think that's something that needs to be reiterated. We put these into place in 2018. The report came out in 2020. So that Task Force was really the mechanism to usher in these changes.

As far as-- You had mentioned the Edna Mahan Board of Trustees. That board of trustees had been defunct prior to my appointment for at least five years. And I saw an opportunity to have an outside body have a relationship with Edna Mahan that would make recommendations to the Administration, to the Commissioner. So that Board has met, they meet on a regular basis. Some of the things that they look at: They take tours of the facilities, they speak to the inmates; if there are issues that get brought to them they will bring those up to the Administration. One of the things that they have done already is, you know, aesthetics. They may

come and say, “Hey, have you thought about maybe painting here, or”-- We received some feedback from inmates saying they would like to see this.

So I know that they are looking to take a more active role. They will be working with our expert, the Moss Group, when they are on-site to conduct listening tours with the inmates, to hear directly what things they think will help improve this culture that we always talk about. But that’s the role of the Board of Trustees. And I can tell you that they are accomplished, we have a great cross-section of individuals on it; we have doctors, we have, you know, researchers; we have a judge who chairs it. They’re all invested in what we’re doing at Edna Mahan.

ASSEMBLYWOMAN MURPHY: Okay, thank you.

And let me-- I understand, and I think we all understand, the report was done in 2020. But considering what we’re facing in 2021, you know, obviously the culture is still the same. So just to ask about another area that I would like to talk about with the culture -- because, again, we could change a lot of the physical stuff going on, I know my colleagues will be talking about that.

On the mental health issues -- especially during COVID. Now, not only our inmates, but our Correction Officers have faced a lot of stress during COVID, as well as on the job. What types of -- I don’t know if I want to say training. For instance, here in Burlington County, my prosecutor who I’ve worked with does resilience training for the officers.

What type of training do you do that addresses the officer’s mental health and wellness? I think that is such an important-- If you’re going to start doing a culture change, you need to address the mental health

and wellness of the officers as well as the inmates. So talk to me a little bit about the Department of Corrections mental health and wellness training.

MR. HICKS: Yes, I couldn't agree with you more. And that was one of the hallmarks of this Administration. We really were the first ones to come in and say that officer wellness is good for public safety. And by that, if we're addressing the needs of our officers and getting them the necessary resources that they need, they're going to make better employees; better employees make better decisions; better decisions equals safer inmates.

And so to that end, we've done numerous things. One is that we have offered resiliency training for our staff. We have a Workforce Wellness Initiative that we started and we put in place. We have instituted a For Blue New Jersey confidential hotline for our staff, both civilian and custody. They can call if they need support. That has been up and running particularly in the midst of COVID.

We have continued to meet with our unions -- all of our custody unions, our civilian unions -- to bridge the communication gaps that may have existed. And also, this Early Warning System is also, I believe, going to be a successful tool for us, because it's going to allow us to address needs with early intervention. So we're going to be able to see, for the first time, tangibly, if someone is having an issue; and then we can intervene and refer them to services.

One of the things that we have tried to do is reduce the stigma of seeking help. Not just for offenders, but for our staff. So all of these things that we're talking about, the end goal is to reduce the stigma, to improve the quality of life of individuals; not just here at the Department,

but also with their families and in their communities. And we believe we have taken the necessary steps, and will continue to to ensure that.

ASSEMBLYWOMAN MURPHY: Thank you. And I reserve additional questions for later.

MR. HICKS: Thank you.

ASSEMBLYMAN MUKHERJI: Thank you, Vice Chair Murphy.

Assemblywoman Muñoz.

ASSEMBLYWOMAN MUÑOZ: Thank you, Chair. Thank you, Commissioner Hicks. I have a few questions. And there's a lot of us on this call, so I'll try to be succinct.

I do want to-- You said that you have been with the Department -- is that correct -- since 2007, with the Corzine Administration?

MR. HICKS: That's correct.

ASSEMBLYWOMAN MUÑOZ: And then you held the Chief of Staff position under the Christie Administration, correct?

MR. HICKS: For six months, yes.

ASSEMBLYWOMAN MUÑOZ: Six months, okay. And you said that you were aware of the -- of what was going on at Edna Mahan. I mean, we're all aware of what's been going on; it's been in the press, it's been for decades -- for a long time; we read about it, we know about it.

So I want to say one thing. You said -- you keep repeatedly saying that your biggest challenge is getting female officers. I think your biggest challenge is greater than getting female officers; I think your biggest

challenge is that you still have an atmosphere that what happened on January 11 can happen. And I think we have to address that.

So the question I have for you-- And you talk about the training that you've done, and I'm certain that you have great intentions, but where did you think the training went wrong? If the training is in place for your -- you call them officers, not-- Where did it go wrong?

MR. HICKS: So, let me answer that a couple ways.

One is the challenge, the female recruitment challenge -- I agree with you. It's a challenge. I didn't say--

ASSEMBLYWOMAN MUÑOZ: That wasn't my question, sir, my question--

MR. HICKS: No, no, I'm going to answer it.

ASSEMBLYWOMAN MUÑOZ: Okay.

MR. HICKS: It's a challenge. We offer the training. We offer the training, we provide individuals with the resources to make the right decisions. If you're asking me why do people make the wrong decisions even in the midst of training that we mandate and we provide, I would say that that is a judgement call -- that somebody is making the wrong call. Someone is clearly deciding to go against established policies and protocols.

That individual needs to be held accountable, 100 percent. There's no doubt about it. To me, us taking swift action on anybody who violates what we are putting out, what we are training them to do, those individuals need to be removed from the Department. They are not suitable to be in this Department and as part of this culture change. So that's how I would address that.

ASSEMBLYWOMAN MUÑOZ: Who do you think is ultimately responsible for their actions, is it the individuals or their supervisors, or does it go to the higher level, all the way up to the Commissioner?

Mr. HICKS: So I believe that at the end of the day, the individual is the one who decided to not follow the policies. I believe that it's up to us as leadership to make sure that we're, from a systematic standpoint, that we're changing systems. So we're putting things in place like our Early Warning System; we're putting things in place such as body-worn cameras; we're upgrading our cameras in our physical plant to ensure that we can mitigate these things from happening; or if they do happen, that we can appropriately respond.

But if we are offering training and we're expecting that individuals are doing the right thing and they choose not to, at that point our job is to make sure that we're holding them accountable.

ASSEMBLYWOMAN MUÑOZ: You know, you-- I agree with all the members on our Committee that-- We all have read this report, we have it in front of us, and it is appalling; appalling is a good word. And you speak today about the training, etc., and yet we still have the incident that took place on January 11. So clearly something has gone wrong.

So there's a failure. I would like to ask you: You're the head -- the Commissioner of the Department of Corrections. How many facilities do you oversee across the State of New Jersey?

MR. HICKS: We have 11 facilities.

ASSEMBLYWOMAN MUÑOZ: Eleven facilities, okay. Is that-- And there's one that's a female-only facility, which is Edna Mahan, correct?

MR. HICKS: That's correct.

ASSEMBLYWOMAN MUÑOZ: And yet you just testified that you've only been out to visit once this year -- that was your testimony, sir. So-- And you know, and you testified that you know, that there is a problem, there has been a problem at Edna Mahan.

Can you tell the Committee if there's any reason why you haven't been out there? I think the presence of a Commissioner at a facility that appears to have an issue, where we have female prisoners who are vulnerable -- I think your presence there would make a statement *a*, to the inmates; *b*, to your employees, to the officers; and *c*, to the supervisors, whoever is at that facility.

I'm not indicting you for anything, but I'm saying, looking in retrospect, in 20/20 vision, would it be smart of you to have gone out more often? Again, we're not talking about 1,000 facilities and 365 days a year -- which is really only half, not counting the weekends -- to get out to the facilities and see what is happening there.

We're going to come visit-- You know, when people come to visit, people are on better behavior. But you also have unannounced visits so that people don't know when you're coming. I mean, it seems to me that there's some things that could be done.

I'm going to go-- Because I know my time is limited, I'm going to go on to a little bit into how your complaints are handled. You said the Department does have a procedure in place specifically at the Edna Mahan



facility for reviewing internal complaints by prisoners and other officers. And so I think you said there is a process in place -- can you tell the Committee a little bit about that?

MR. HICKS: Sure, I would be happy to.

As I had mentioned earlier, what we want to encourage is reporting. Reporting-- When individuals report, that helps make the institution safer, and we want to create this culture of reporting.

So the ways in which, you know, someone reports -- as I had mentioned before -- hotlines; JPay; telling a staff member. Whether it's an employee, volunteer, contractor, third-party, reporting through the Ombudsman's Office; they can talk to anybody. Anybody can make a referral on behalf of an inmate.

All of those, at the end of the day, comes to our Special Investigations Division. And when we receive those allegations, they are immediately referred to the Prosecutor's Office. We have-- For investigation, on top of that, we have facility-wide PREA reviews; so PREA allegations, we review them at the facility. And we also have a Central Office sexual advisory -- Sexual Assault Advisory Counsel. And their role is to review every PREA allegation, whether it's substantiated, unsubstantiated, or unfounded. They are reviewing every one of those allegations to see if there are remedial measures that can take place -- even if the allegation is unsubstantiated.

And so we have multiple ways to report, and we have multiple layers, once the allegation is reported, of how it's processed.

ASSEMBLYWOMAN MUÑOZ: Well, firstly, I would like to say, one thing you just said -- and I wrote it down because you said it -- you

said that you'd like to encourage reporting. You know, when we look at sexual assault reporting, whether it's during a campaign -- when we did the investigation into the Katie Brennan thing -- we have mandated reporting. So I think we could probably try to change the language: instead of *encourage*, to *mandate* -- I mean it seems to me it should be mandated.

MR. HICKS: If I could jump in before you go on, Assemblywoman--

ASSEMBLYWOMAN MUÑOZ: Okay.

MR. HICKS: The mandating reporting for staff -- that is a mandate. What I was referring to is inmates; inmates reporting an allegation. We want to encourage that. Yes.

ASSEMBLYWOMAN MUÑOZ: Okay. And I go back to what Assemblyman Mukherji said at the very beginning, which is if you're handing out a booklet that is over -- it's full of dense material, maybe-- I make the analogy to a homeowner's insurance policy. Homeowner's insurance policies -- because nobody ever found their flood insurance information, they don't have flood coverage, they made it on the face page of your homeowner's.

This is an important issue; perhaps we shouldn't have it put inside a manual, but put it on the front page. Again, we're looking at solutions as well, as we question you today.

Are any of these complaints referred to outside groups, or is it all internal investigations?

MR. HICKS: No, as I mentioned, every allegation is initially referred to the Prosecutor's Office, now, for investigation. The Prosecutor's Office will decide if they would like to take the case or not, but every

allegation is referred outside to the Prosecutor's Officer. And then our Special Investigation's Division works in conjunction with the Prosecutor's Office, in corroboration, not conjunction. And also--

ASSEMBLYWOMAN MUÑOZ: How many--

MR. HICKS: I'm sorry, and also to your point-- I just wanted to-- Because the facts are important, as you stated. The handbook is not the only way in which we educate inmates about PREA. We have our JPay systems, we have our inmate television, we do face-to-face orientation. So it's really important that we get the facts about this, because it's very important. We're not just putting information in a handbook and giving it to an inmate. I just wanted to clarify that.

ASSEMBLYWOMAN MUÑOZ: That's good, because that's really important. It's like-- I'm a nurse by profession. It's like health care - - we hand out packets of information and then we expect someone to find something important in that packet. Again, I think the better analogy is the homeowner's insurance policy; that they don't cover floods.

How many complaints-- Can you give us a number of how many complaints you received per year?

MR. HICKS: So I can tell you-- Yes. I can tell you in 2019, Department-wide, we received 268 PREA complaints. Now, that's not just specific to Edna, that's Department-wide.

ASSEMBLYWOMAN MUÑOZ: Oh. How about at Edna?

MR. HICKS: At Edna, I can tell you that we have-- In 2019 we had 22 allegations filed at Edna; 2020 we had 39.

ASSEMBLYWOMAN MUÑOZ: And how long-- And what's the average time for the complaint to be resolved?

MR. HICKS: You know, it depends on the case. I can't give you a specific answer because, again, those cases are referred to the Prosecutor's Office initially, so they have their process. I wouldn't feel comfortable throwing a number out there; but what I can say is that everyone understands the importance of timely investigations, and I do know -- I don't want to speak for the Hunterdon County Prosecutor's Office -- but I do know that they worked as diligently as possible to get these investigations resolved.

ASSEMBLYWOMAN MUÑOZ: I know I've been told to wrap it up, but I have two very important questions I have to ask.

In the latest incident -- which there are many, but I'm referring to the latest incident -- when did the investigation of the complaint begin?

MR. BECK: Assemblywoman, this is Matt Beck--

ASSEMBLYWOMAN MUÑOZ: Yes, I see you.

MR. BECK: Respectfully, that is part of the ongoing investigation, and is something that the Commissioner is not going to be able to speak to today.

ASSEMBLYWOMAN MUÑOZ: So you can't answer who--

ASSEMBLYMAN MUKHERJI: Assemblywoman, would you mind rephrasing your question to deal with that circumstance generally, rather than specifically January 11?

ASSEMBLYWOMAN MUÑOZ: Absolutely. You're the lawyer. (laughter) I'm the nurse.

So when you get a complaint of this nature, do you inform the front office, or does it come to you as the Commissioner? Or does it stay within the facility? I mean, this is a serious-- There have been in the past,

according to our DOJ report -- which is for the public to know -- that there have been serious complaints. Do those go to the front office, or do they stay internally?

Is it that the person who is a supervisor at the facility keeps that information to him or herself, or are you informed of every single complaint?

MR. BECK: As the Chairman suggested, I have no problem with you answering that question generally, just not specifically as it relates to the incident of September -- January 11.

ASSEMBLYWOMAN MUÑOZ: I think that general information would be helpful -- to know whether, like, how-- Who initiates the investigation? When you get a report of this serious nature, let's say -- let's make it general; a serious allegation -- who initiates the investigation?

MR. HICKS: So what I would tell you is that those allegations, allegations of that nature, should be immediately reported. And--

ASSEMBLYWOMAN MUÑOZ: Reported to whom? Reported to-- Who gets that initial report? The supervisor at the facility? Do you get that report? Who gets that report?

MR. HICKS: The initial allegations are referred to the Prosecutor's Office immediately. Immediately. So--

ASSEMBLYWOMAN MUÑOZ: Who gets it there? Does it come from your supervisor?

MR. HICKS: Our Special Investigations Division -- SID.

ASSEMBLYWOMAN MUÑOZ: Okay, that's what I was trying to get. Special Investigations Division gets it to the Prosecutor's Officer. But you know, again-- I go back to what happened during the

Katie Brennan case. So it gets to the Prosecutor's Office, and yet then we have this, like, void, where we don't see where it goes from there.

So in that case, it gets to the Prosecutor's Office but there's no communication with either the Commissioner, there's no communication with you, or how-- Where does it go? That's really what we need to know. How does it reach the level of your Office? Or does it depend on the severity-- I mean, the Hunterdon County Commissioner (sic) said, you know, they never read the report on the Katie Brennan thing.

Is it the Hunterdon County Prosecutor, is he or she not reading it? Does it get all the way up to the Governor's Office? That's what we really want to know.

MR. HICKS: So the--

ASSEMBLYMAN MUKHERJI: Assemblywoman-- Sorry, Commissioner, I'd like you to answer the question.

Assemblywoman, if we could just make that the last question--

ASSEMBLYWOMAN MUÑOZ: It is my last question, but I just want-- It's a series of questions. How do we get-- We want to know. I'm assaulted, and I have a complaint, and it goes to your SID. The SID then, you say, a person sends that directly to the Prosecutor's Office? And then the Prosecutor's Office-- Assemblyman Mukherji, you actually used the words, "Do you have a cozy relationship with the Prosecutor's Office?"

I'm asking a question, like, now it's at the Prosecutor's Office. Who decides at that Office, and does it reach the level of getting to the Commissioner -- and if it gets to the level of the Commissioner, if it's a serious allegation, does it get to the level of the Governor?

MR. HICKS: So to answer your question, our Special Investigations Division, who reports to me directly -- the Chief of SID reports directly to me as the Commissioner. So I am aware of allegations, I am aware, directly, because that individual reports directly to me.

Simultaneously and immediately, any allegation is referred directly to the Prosecutor's Office. I don't have to be involved with that, that happens immediately. And so, to answer your question, that immediacy is there, and that's intentional. I am made aware because the Chief of the Special Investigation Division reports directly to me.

ASSEMBLYWOMAN MUÑOZ: And the Prosecutor's Office does with it as he or she decides, depending on what? You're an attorney by practice-- You're an attorney, correct?

MR. HICKS: Yes, I am not a prosecutor, so you would have to ask that question of them.

But I will say that they will decide whether to take or turn down the case. And in any event, we are in constant contact with the Prosecutor's Office. We never interfere with an investigation, but we work in partnership. So that's how that relationship is.

ASSEMBLYWOMAN MUÑOZ: And are you-- One last question, Assemblyman. Are you in contact with the Governor about this?

ASSEMBLYMAN MUKHERJI: We're a few minutes over, Assemblywoman.

ASSEMBLYWOMAN MUÑOZ: I understand, but you know what-- I'm not going to ask any more questions after this, this is all part of that same question. Are you in contact with the Governor's Office?

ASSEMBLYMAN MUKHERJI: We will have an opportunity--

ASSEMBLYWOMAN MUÑOZ: I understand. I'm just completing this one line of questioning, sir.

MR. BECK: And again, as long as the question is a general one and not specific to the incident--

ASSEMBLYWOMAN MUÑOZ: Yes, it's a general one. Are you in contact with the Governor's Office about these issues?

MR. HICKS: I'm always in contact with the Governor's Office as a cabinet member; I'm always in contact with the front Office.

ASSEMBLYWOMAN MUÑOZ: Okay. Thank you, Assemblyman Mukherji.

ASSEMBLYMAN MUKHERJI: Understood, Assemblywoman.

ASSEMBLYWOMAN MUÑOZ: Thank you, Commissioner.

MR. HICKS: Thank you.

ASSEMBLYMAN MUKHERJI: Assemblywoman Swain-- Vice Chair.

ASSEMBLYWOMAN SWAIN: Thank you, Chair.

I just want to follow up on this line of questioning. We're talking about reporting, and I wanted to ask about grievances. And I'm little confused now, because you haven't used the word grievances in reporting. Is that a separate aspect of reporting?

MR. HICKS: So, it is. We have grievances, we have inquiries, but what I'm talking about is just, you know, standard reporting; standard JPay reporting. It could be a grievance, it could be an inquiry.

ASSEMBLYWOMAN SWAIN: Okay, then let me just focus on grievances for a moment. According to NJ.com, they reported that prisoners at the Edna Mahan facility had filed thousands of complaints --



and I know you just referred, when you were talking to Assemblywoman Muñoz about 39 or, you know, another number -- but that this facility had the worst rate of delays in responding to grievances, with a significant number that were left unopened.

So how are you addressing that? I know you mentioned you want to have swift change; what's happening in the area of grievances?

MR. HICKS: So as I mentioned before, ensuring that we have these appropriate reporting mechanisms is important. I had an opportunity to meet with the Ombudsperson regarding the report -- I'm obviously aware of it. And that report, as you stated, did show that there were backlogs of grievances.

And so what we've done to correct that -- because that shouldn't happen -- is, particularly at Edna Mahan, we have appointed an Assistant Superintendent, which is a higher level official in a leadership position, to oversee that entire remedy process. And as a matter of fact, we also ensured that every institution has that same higher level of scrutiny when it comes to that.

The other issue that was pointed out in that report is that the same staff member who may have answered the initial grievance, was also the staff person who would do an appeal. That shouldn't happen either, so we have changed that via policy.

We have also provided refresher training to all of our institutions to once again go over the proper process and the protocol -- you know, this remedial action. And finally, what we have required is, on a regular basis all of the grievance and inquiry information has to be reported up to Central Office, and for Central Office review.

And I can tell you that as of today, Edna Mahan has zero outstanding grievances pending. And I don't say that to boast; I say that as, you know, we had to put these things in place to ensure that we have the proper accountability, these systems, and now we do.

So I don't foresee that being an issue moving forward; but it was highlighted, and we did address it.

ASSEMBLYWOMAN SWAIN: So you've addressed those thousands of outstanding grievances; those are all cleared up now?

MR. HICKS: All of them have been -- all of them have been addressed, yes.

ASSEMBLYWOMAN SWAIN: Okay, great. Well, let me just move quickly to another topic, and that's of cell extractions.

Who approves the use of cell extractions at this facility? Is there one person, or is it a committee -- how does that work?

MR. HICKS: So when it comes to cell extractions, first of all, the use of force in cell extractions should be the last option. And unfortunately -- which is not just common to the Department of Corrections here in New Jersey, but nationwide -- unfortunately there is going to come a time when you have to utilize force. The way that it works in the Department is that there has to be Central Office notification before a cell extraction takes place.

And so we have clearly established policies on how cell extractions are to take place, who can approve them, what they look like, and how they are to be recorded. But in terms of the initial decision to make or conduct a cell extraction, Central Office has to be notified when it comes to that.

ASSEMBLYWOMAN SWAIN: Okay. And then, what circumstances would warrant a cell extraction?

MR. HICKS: So essentially a cell extraction would be for an incident in which an inmate is perhaps threatening to harm himself, harm another inmate; or cause damage to property. Sometimes a judge will, you know, have a court order in which an inmate has to appear, and if the inmate refuses to come out of the cell we'll have to do a cell extraction.

ASSEMBLYWOMAN SWAIN: Are they recorded?

MR. HICKS: Yes, per policy the cell extractions are to be recorded.

ASSEMBLYWOMAN SWAIN: Okay. And then, how many of them are conducted at night?

MR. HICKS: So we have multiple shifts, and one of the things that I put in place was to ensure that we are not conducting cell extractions at night, if possible, unless there's exigent circumstances. So most of the cell extractions happen, you know, on first shift. That's not to say that they won't happen on second or third, but if they do, they absolutely have to be-- There has to be an exigent circumstance for it. It has to be a matter of safety and security for us to approve a cell extraction at night.

ASSEMBLYWOMAN SWAIN: Could you just quickly give me an example of that--

ASSEMBLYMAN MUKHERJI: I'm so sorry to interrupt you. I just want to make sure you saw your phone, that you have--

ASSEMBLYWOMAN SWAIN: I know, I'm just about out of time. I'm just curious about an example--

ASSEMBLYMAN MUKHERJI: No, you still have a couple of minutes; I just wanted to make sure you saw the warning text.

ASSEMBLYWOMAN SWAIN: Yes.

ASSEMBLYMAN MUKHERJI: Please proceed, and I'm so sorry to interrupt.

ASSEMBLYWOMAN SWAIN: Maybe we need a little Grammy music when we're almost out of time. (laughter)

So yes, if you could just give us an example of something like that.

MR. HICKS: Sure. The first thing that comes to mind is if you have an inmate who is attempting to commit suicide, or there is another inmate who that particular inmate is assaulting -- these are exigent circumstances where we would need to go in to stop the behavior from happening.

ASSEMBLYWOMAN SWAIN: All right, so you said that all these extractions are recorded on video. So would the officers still need to wear a body camera?

MR. HICKS: I believe that the body camera is an added layer of protection; not just for the offender population, but also for the officer, because-- You know, if I'm an officer and someone is making an allegation that I have not conducted myself in the proper manner, that body camera footage could be utilized as evidence to disprove that.

From the offender's standpoint, it's another layer of a video footage. So if something does happen, we have cameras on the units, but we also have an added layer of protection, if I'm an offender, that can be utilized.

So the answer to that question is *yes*, I think that it's important, and it's going to provide another layer of security that is going to help us reach our safety reform goals.

ASSEMBLYWOMAN SWAIN: All right, thank you. Thank you Chair -- Chairs.

ASSEMBLYMAN MUKHERJI: Assemblyman DePhillips.

ASSEMBLYMAN DePHILLIPS: Thank you, Mr. Chairman; Commissioner, thank you for being here today, we appreciate the fact that you have joined us today to answer our questions.

We can see that you have your attorney with you, but you are an attorney in your own right, correct?

MR. HICKS: I am.

ASSEMBLYMAN DePHILLIPS: And when and where did you attend law school?

MR. HICKS: So I attended law school at Seton Hall University School of Law.

ASSEMBLYMAN DePHILLIPS: Okay, when did you graduate?

MR. HICKS: In 2003.

ASSEMBLYMAN DePHILLIPS: So sir, you're familiar with the 8th Amendment to the U.S. Constitution, correct?

MR. HICKS: Very familiar, yes.

ASSEMBLYMAN DePHILLIPS: What does the 8th Amendment mean to you?

MR. HICKS: Well, I can tell you not just as an attorney, I can tell you in the context of Corrections that our job, our number one mission,

is to ensure the safety and security, and humane correctional -- humane treatment of everyone in our custody. That, at the end of the day, is what we are charged to do. And everything else that we put into place is to achieve that mission.

ASSEMBLYMAN DePHILLIPS: Okay, fair enough. Has Edna Mahan violated the 8th Amendment at any time in its history?

MR. HICKS: As we have discussed and that is documented -- and we're on the heels of a Department of Justice report -- the DOJ has found that there are violations, and there has been a history of abuse that has to be addressed. Also, as I mentioned, we have also just settled litigation on the civil side.

So to answer that question: There have been -- there definitely have been violations. And that's why we're here -- to address those.

ASSEMBLYMAN DePHILLIPS: And when you say violations, you're talking about violations of the 8th Amendment, correct?

MR. HICKS: Violations of the-- Yes, the DOJ said that there were violations of the 8th Amendment; so constitutional violations, violations of policy, criminal violations, yes.

ASSEMBLYMAN DePHILLIPS: And did they say there were violations of the 8th Amendment in respect to the January 11 event?

MR. BECK: So Assemblyman, the report was issued before the January 11 event; and as we've discussed today, Commissioner is not able to speak about that event and any of the facts relating to it.

ASSEMBLYMAN DePHILLIPS: No, I'm aware of that. But has the Department of Justice communicated with you in any way about

the January 11 event and whether there were violations of the 8th Amendment?

MR. BECK: And so Assemblyman, again, the Commissioner has said that a Consent Decree is being finalized and being approved by headquarters. But in terms of the January 11 event, it's not something -- whether it's conversations with DOJ, whether it's the Matt Boxer investigation, whether it's the Attorney General's investigation -- it's not something he's going to be able to speak to today.

ASSEMBLYMAN DePHILLIPS: Okay, fair enough.

Commissioner, since you've been Commissioner -- or Acting Commissioner -- have there been violations of the 8th Amendment at Edna Mahan?

MR. HICKS: We have not seen any court cases. The litigation settlement -- excuse me -- that I referenced is primarily for events that happened prior to my tenure -- actually extending back from 2014. And so there was one criminal case in 2019 involving an officer who was found guilty and prosecuted for inappropriate conduct with an inmate -- a female officer -- inappropriate conduct with an inmate.

That is the only court case that has happened since I have -- in terms of criminal prosecution that I have -- that has existed since I have been here.

ASSEMBLYMAN DePHILLIPS: Okay, I wasn't asking about lawsuits or criminal actions. I was asking you as Commissioner if you believe there have been violations of the 8th Amendment during your tenure at Edna Mahan.

MR. HICKS: Yes -- I would be speculating. Do I believe that there have been violations? What I believe is that if there are violations or have been violations, that we have the appropriate mechanisms for them to be reported, and for them to be investigated and appropriate discipline or prosecution to be levied out.

ASSEMBLYMAN DePHILLIPS: Well, I don't think you would be speculating, since I think, in response to Assemblywoman Muñoz, you testified that complaints of this magnitude that we're talking about in respect to Edna Mahan do come to your Office, so you would be aware of them, correct?

MR. HICKS: The Chief of the Special Investigations Division does report to me, yes; however, allegations have to be investigated -- and they are, as I've mentioned.

ASSEMBLYMAN DePHILLIPS: Okay. So subsequent to those investigations, have you concluded that there have been violations of the 8th Amendment at Edna Mahan during your tenure?

ASSEMBLYMAN MUKHERJI: I don't mean to interrupt, but just adding to the Assemblyman's questioning: Doesn't the Federal report, and the reason for them to come in, start, in the middle and the end -- is that the 8th Amendment-- There has to be probable cause, for the 8th Amendment to be violated in a pattern, for them to come in. Isn't that kind of the whole point? Assemblyman, I didn't mean to jump in and add to your question. And if you don't mind, a couple more minutes.

ASSEMBLYMAN DePHILLIPS: Okay, fair enough.

MR. HICK: Yes, I mean-- To answer the question: The reason why the Department of Justice came into New Jersey is because they have



recognized that there is an issue, and that report clearly states that there's an issue stemming back to 2014. But, you know, are there violations happening now, or Constitutional rights being violated now? I can't answer that any differently than I already have.

ASSEMBLYMAN DePHILLIPS: Okay. Would you support Federal monitors at Edna Mahan?

MR. HICKS: As part of the DOJ Consent Decree, there likely will be Federal monitors at Edna Mahan. And I can tell you that, again, we have been nothing but cooperative with the Department of Justice since the onset of the investigation in 2018. So I am perfectly fine working with DOJ. I have no issues with that whatsoever.

ASSEMBLYMAN DePHILLIPS: Have you asked DOJ for Federal monitor protection at Edna Mahan?

MR. HICKS: I don't know if I can--

MR. BECKS: Assemblyman, I guess all I can say is that the Commissioner indicated that he does expect a monitor to be included as part of the resolution. That resolution is not yet approved by DOJ headquarters, but it will be released, we expect, in a matter of weeks, and you'll have the full details.

ASSEMBLYMAN DePHILLIPS: Yes, I understand, but I asked the Commissioner if he *requested* Federal monitors, at any time, for Edna Mahan.

MR. HICKS: I have not specifically requested Federal monitors, but I also understand that as part of this process -- particularly if you look at how other states have dealt with this issue -- Federal monitors

have always been a part of the discussion and the process. So it was always my expectation, the possibility of Federal monitors being here.

ASSEMBLYMAN DePHILLIPS: My final question is, in light of what happened on January 11 at Edna Mahan, would you agree that Federal monitors would be a good policy choice for you to make for Edna Mahan?

MR. HICKS: I will say that I support any and all efforts to fix a decades-old problem that existed prior to my appointment, and that we are actively working to fix.

So the answer is, any and all actions I would support, absolutely.

ASSEMBLYMAN MUKHERJI: Thank you, Assemblyman.

ASSEMBLYMAN DePHILLIPS: Okay, thank you.

ASSEMBLYMAN MUKHERJI: Assemblyman Johnson.

ASSEMBLYMAN JOHNSON: Thank you, Chairman Mukherji and Chairwoman Mosquera. Commissioner Hicks, thank you for taking my questions today, I have a few questions.

I'd like to go to what I'd like to refer to as a *chain of command*. The DOC being a quasi-military operation -- at least I view it that way -- there's a strict chain of command there. I think you said earlier in your testimony that, as a Commissioner, you are not responsible for the operational part of the DOC. Did I hear that right?

MR. HICKS: No, sir, I did not say that. I absolutely am responsible for the operational--

ASSEMBLYMAN JOHNSON: The operations -- okay.

MR. HICKS: Yes.

ASSEMBLYMAN JOHNSON: So during this time when these incidents were taking place and being reported, who was in charge of that facility? Was there a warden-- Is that person called a warden?

MR. BECK: Assemblyman, just so I'm clear. Are you speaking of a specific incident, are you speaking generally at the facility, who's in charge?

ASSEMBLYMAN JOHNSON: I was speaking about the facility itself. The person who is in charge of that facility, and what's that person's title.

MR. HICKS: So in general, in all of our facilities, the structure is the top-level person is called an Administrator.

ASSEMBLYMAN JOHNSON: Administrator.

MR. HICKS: Administrator, the Chief Executive of the facility. We have an Associate Administrator who is the number two, and then we have Assistant Superintendents.

ASSEMBLYMAN JOHNSON: Okay. So the Administrator is the individual who runs that facility?

MR. HICKS: That's correct.

ASSEMBLYMAN JOHNSON: They have a responsibility for that facility. And these allegations that have taken place, that we've all been reading and we're discussing now, were going on under the authority or while this Administrator was at this particular facility? Correct?

MR. BECK: I'm not sure of the question, Assemblyman, but is the question on the day of January 11?

ASSEMBLYMAN JOHNSON: Not the day of; even prior to that, we have -- in reports we have numerous complaints of an attitude

where these Correction Officers felt that they could -- not most, but a few -- were abusing these inmates. And the reports were-- There were complaints that went forward to someone. Did it go to this chief Administrator? Was he or she made aware of it?

MR. BECK: And again, Assemblyman, if your question to the Commissioner is generic as to how do reports-- He's more than happy to answer that question. As it related to January 11--

ASSEMBLYMAN JOHNSON: Okay, I'll rephrase the question, sir.

In your Department, complaints from inmates eventually wind up to the chief Administrator of that facility?

MR. HICKS: To the Administrator of the facility, yes.

ASSEMBLYMAN JOHNSON: And then he or she passes it on to you, up the chain of command?

MR. HICKS: If the issue is not dealt with-- So if it's a serious allegation, it's a serious complaint-- I just want to make this clear. If the inmate is asking for something that the Administrator can take care of -- if they're asking for information, for instance, those are things at the administrative level the facility should be able to respond to.

If you're speaking about PREA allegations, allegations of abuse and sexual assault -- that's an entire different mechanism. That's what I was discussing when I said the Prosecutor's Office is made aware, referrals are made. There are different tracks and different types of allegations.

ASSEMBLYMAN JOHNSON: Okay, I think I understand that. But it winds up eventually with the chief Administrator of that facility, yes?

MR. HICKS: The Administrator of the facility is aware. But if it's a matter of sexual abuse, inmate abuse, it's not just going to the Administrator. It's going-- Correct, it's going to multiple different places.

ASSEMBLYMAN JOHNSON: It'll go to the Prosecutor's Office, possibly, but then also it comes to your desk, as the Commissioner.

MR. HICKS: I'm aware, because the Chief of SID reports to me, yes.

ASSEMBLYMAN JOHNSON: Okay, and that's the line of communication that I was trying to establish there. Okay.

So, what we have here is what's been described as an attitude or an environment where certain officers felt that they could do what they were doing to these inmates under their charge, which existed a long time. So I'm trying to determine if the chief Administrator of this facility was made aware of these incidents during this whole period of time. Was there any system in place where if an inmate reported an issue, was the chief Administrator made aware of it?

MR. BECK: Again, as it relates to January 11--

ASSEMBLYMAN JOHNSON: Were there rules and regulations in your policy where the chief Administrator was made aware of complaints coming from inmates when it comes to sexual abuse?

MR. HICKS: Yes, the Administrator of the institution would be made aware of allegations.

ASSEMBLYMAN JOHNSON: Okay. And then he or she would report that to you in some way -- in a weekly report, or a monthly report, or a daily report?

MR. HICKS: Well, again, because our Special Investigations Division is involved and are responsible for making the referrals to the Prosecutor's Office, I would be notified directly as part of a chain of command from the Chief of SID.

ASSEMBLYMAN JOHNSON: Okay, I'll change it to-- My time is running out here, I see.

Could you describe to me the Restorative Housing Unit. What does that look like physically-- What is that? And I ask that because I'm told if an inmate has a complaint or an issue, they can be transferred or separated from the offending officer or the accused officer, and/or the other inmate -- if they complained about an inmate -- they go to a Restorative Housing Unit. Is that correct?

MR. HICKS: So our Restorative Housing Unit is a housing unit that we have in place for individuals who had been adjudicated guilty for certain disciplinary infractions. It's not solitary confinement; it's not isolated confinement. These individuals, they are removed from general population, however they still access to out-of-cell time, programs, services - - you know, JPay, phone, what have you.

As it pertains to an inmate who makes an allegation, as I have stated earlier, the policy before I took this position was to remove an inmate and put that inmate-- At the time it was called *Temporary Closed Custody*. What we changed in 2018 was to not automatically do that, number one; the moving of an individual who makes an allegation is done on a case-by-case basis. Sometimes it's appropriate to leave that individual where they are, but we do separate the person who makes the allegation from the alleged perpetrator.

At no time do we take away an inmate's property, an inmate's privileges for making an allegation. That was one of the differences, changes that we implemented. Because we didn't want it to be punitive, and before it was seen to be punitive.

So going to the RHU is a way of separating an individual -- however, they still have access to services and programs, and their rights.

ASSEMBLYMAN JOHNSON: Okay. I see my time is up; so Chairman and Chairwoman, thank you for allowing me to ask these questions.

ASSEMBLYWOMAN MOSQUERA: Thank you very much, Assemblyman Gordon, I appreciate the line of questioning; and to you, Commissioner, for responding.

The next up we have is Assemblywoman McKnight, please.

ASSEMBLYWOMAN MCKNIGHT: Hi, Commissioner.

MR. HICKS: Hello.

ASSEMBLYWOMAN MCKNIGHT: I heard your opening statement; you talk about helping individuals succeed, human decency regardless of crime, safety, training, identifying solutions to problems. So when I ask these questions, I'm talking about Edna Mahan -- I'm not talking about any other facility. And I'm talking about your role -- as you are the leader; you have been the leader since 2018. So I want to switch gears and talk about retaliation.

So Commissioner, according to several reports concerning our facility -- correctional facility -- inmates allege that their grievances are met with retaliation by personnel. Can you walk me through the Department's grievance process, and how the Department ensures confidentiality and

protection for inmates who are brave enough to report abuse? And this is in reference to retaliation -- grievances.

MR. HICKS: So the way I'll start with that question is, that the only way that we are going to effectuate a culture change -- a true culture change -- is by ensuring that individuals feel safe and they can report in a confidential manner; because those reports have to happen as part of our ways to implement the appropriate safety reforms.

When it comes to grievances, an individual can go to the JPay kiosk -- which we have made confidential -- they can go there; we have set up barriers to make the reporting confidential. They can go on, they can submit a grievance; and that grievance, if they make an allegation, is received by the Administration, it is referred to SID; SID goes through the process of referring it to the Prosecutor's Office, as I had mentioned.

When it comes to retaliation, that is one of the areas in which the Department had to upgrade what we were doing in 2018.

ASSEMBLYWOMAN MUÑOZ: Somebody has to mute their phone.

Sorry, but someone is not muted. They're talking right over you. So thank you.

MR. HICKS: I'm sorry. So what we do--

UNIDENTIFIED SPEAKER: It's not you, it's them.

MR. HICKS: What we do for retaliation monitoring is we have face-to-face interviews with the inmate, for example, who made an allegation. We are speaking to them for a period of 90 days -- is the initial retaliation period; we are reviewing things such as any housing changes, any



program changes -- anything that may look like retaliation on behalf of an inmate for making an allegation.

If we see that something has happened, our Central Office review committee will ensure that those issues are addressed. And that continues.

And by the way, it also continues for staff as well-- Staff will make -- if they report -- and other staff members attempt to retaliate against them, we have similar measures in place.

So the retaliation monitoring includes face-to-face interviews with the inmate to talk to them directly; document reviews; housing reviews to see if there's been any changes in programs, housing assignments; and that is how we are alerted for retaliation.

ASSEMBLYMAN MCKNIGHT: Commissioner, concerning your 90 days follow-up reports in which the Department monitors for retaliation. Who is responsible for monitoring? Who determines if more time is needed? What happens if the inmate receives disciplinary actions during this period? How many times has the Department found incidents of retaliation? And what happened and continues to happen when retaliation is found?

MR. HICKS: So I'll try to answer all of those questions.

In terms of who is responsible for monitoring the retaliation, each of our institutions have designated PREA Compliance Managers. We have made that a requirement because of the Prison Rape Elimination Act. Each prison has designated that manager. That individual is responsible at the facility for conducting the retaliation monitoring -- at least the initial procedures.

We also have here at Central Office -- as I mentioned -- we have a Sexual Assault Advisory Council. They are reviewing every PREA allegation; and as part of that, they are also discussing retaliation, they are taking a look at what's happening in the facilities. But the initial responsibility falls on the institutional PREA Compliance Manager at the facility. If someone is found to have engaged in retaliation, then we take appropriate discipline, and discipline can range anywhere from suspension to removal.

So that's how that process works.

ASSEMBLYWOMAN MCKNIGHT: Commissioner, the first question that I asked, I really didn't get a full answer from you. I wanted to know the process -- walk me through the process -- but I don't have enough time. So I will definitely be following up, because I really need to know: What is the process? And you have stated you have visited the facility; you spoke with staff; you spoke with union officials, leadership, Task Force, SID -- but I have not heard you say you have spoken with the inmates. Not one time.

And I need that to begin to happen. Because in order to change the culture, in order to give human decency, in order to provide solutions, you have to talk to all stakeholders.

Now, since 2018 -- and you can correct yourself if you want -- have you had the opportunity to sit and talk with inmates? Especially those who have submitted a grievance in reference to receiving retaliation for speaking up?

MR. HICKS: So I have absolutely spoken to inmates. Every time I'm at a facility I speak with inmates. It would be egregious if I went

to a facility and not spoken to those who are entrusted in our care. So thank you for giving me an opportunity to clarify.

As it pertains to the retaliation monitoring -- do I conduct the retaliation monitoring at the institutions? I do not do that. We have designated staff to do that. But when I'm at institutions, I most certainly speak to everyone, and I talk to everyone -- including Edna Mahan. And not only have I spoken to those inmates, but we've had very honest dialogue about their experiences.

And so, yes, I am definitely engaging with inmates.

ASSEMBLYWOMAN MCKNIGHT: And during your engagement, is it confidential, or do you have staff around you when you're talking to them?

MR. HICKS: It varies, it varies. There are times where it will be myself and staff; there are times where I'm walking around touring and speaking to inmates while they are in their housing units; there are times where inmates will be called down. But the engagement is there.

ASSEMBLYWOMAN MCKNIGHT: Okay. So this is my last question-- It's not going to be a question, because time is of the essence.

Moving forward, it would very purposeful to state that you speak to inmates. And I see that there is a broken link between the Prosecutor's Office and your desk, because you are the leader and you should know each and every thing that's happening -- especially since you have been working at that facility for so long.

So you should know. And you want to change the culture, so you have to be inside of it in order to appropriately change the culture.

I yield my time.

ASSEMBLYWOMAN MOSQUERA: Thank you very much, Assemblywoman McKnight; next up we'll hear from Assemblywoman Dunn.

ASSEMBLYWOMAN DUNN: Thank you, Chairwoman. And thank you, Commissioner Hicks, for coming to testify to address how we can fix this broken system.

MR. HICKS: Thank you.

ASSEMBLYWOMAN DUNN: And thank you for your public service.

I know my time is limited, so I am going to try and get to the main items that were revealed in the DOJ report, as well as today in your testimony.

You mentioned, you know, one-- I guess there's 300 -- over 300, approximately 300 staff at Edna. We know that there were 30 correctional officers charged; that's 10 percent of your workforce there, so I suggest this is not a bad actors scenario.

You mentioned the code of silence that you were aware of in your 14-year tenure with the Department. Can you speak to that? What levers did you have prior to being Commissioner to address this code of silence, which has really fostered what appears to be an organized network of predation and human trafficking?

MR. HICKS: So, a couple things. One is, I just wanted to clarify. There have not been 30 individuals charged in this incident. I just wanted to clarify that.

ASSEMBLYWOMAN DUNN: I do have reports of 30, so there's a discrepancy there. If you have an exact number, if you want to

provide that; but still the amount of personnel either charged, convicted, accused -- again, is not a bad apple scenario.

MR. HICKS: Assemblywoman, those 30-- They have not been charged. They have been suspended; administrative leave, suspended. I just wanted to clarify.

And the second-- I'm sorry, the second question?

ASSEMBLYWOMAN DUNN: You spoke of this code of silence, that for--

MR. HICKS: Yes.

ASSEMBLYWOMAN DUNN: That during your 14-year tenure you were aware of these well-documented reports and instances, but it wasn't until you got into -- at the helm in 2018 that you were able to bring in these reforms.

Are you suggesting that throughout those 11 years prior to being Commissioner, that you did not have a seat at the decision-making table; you didn't have any kind of tool or lever to address these horrific instances which you have indicated you were aware of throughout?

MR. HICKS: Yes, so I never had operational control of the facilities until I became Commissioner in 2018. And so, as with anything, the chance to make real reform ultimately lies on the individual who has the authority to enact the change. So me being appointed to this position in 2018, despite my experience in the Department-- Which I don't shy away from because it is very beneficial to the discussion. But the operational decision-making, and the final authority to make decisions, only comes and lays with the Commissioner of the Department of Corrections.

ASSEMBLYWOMAN DUNN: I understand--

MR. HICKS: And as far as the code of silence is concerned, I mentioned that because, you know, in law enforcement I think that these are issues that have to be addressed. And we just -- with the documented history of Edna Mahan, knowing what has taken place in the past and what we're trying to do right now, it just ties into the need for a cultural change; and that's why I brought that up.

ASSEMBLYWOMAN DUNN: Can you tell me how often the Department conducts performance reviews for prison employees?

MR. HICKS: So performance reviews are conducted by our -- we have our Office of Human Resources that oversees that. I would have to get exact timeframes to you, but we do have regular reviews. I would have to get the exact timeframe; I don't have that at my fingertips right now.

ASSEMBLYWOMAN DUNN: Okay. And in addition to that, providing the timeframes, I'd also like to know if those reports are reviewed by anyone outside of the Department.

And if I could just jump -- like I said, I have limited time -- the other issue I wanted to cover is the removal of on-site, in-person victims advocacy counseling services. As we-- In the report, the DOJ highlighted that -- page 10, paragraph 4 -- regarding that that's been shifted to a hotline which has been deemed underutilized.

So can you speak to the-- We all know the importance, especially living through this pandemic, of the removal of in-person services and on-site; what that has really -- what problems that's created for so many of us in terms of isolation and other items in here -- you know, an inability for these women to come forward.

So speak to that. Why was that removed, and why has that not been put back in place, in spite of the recommendation made out of the DOJ report?

MR. HICKS: I can tell you, Assemblywoman, that I wholeheartedly agree with you in terms of the importance of providing these services to the population. And so when it comes to on-site, we, through our clinical health provider -- which is Rutgers University, we contract with them for our medical and mental health services -- we have clinicians on-site that provide mental health services to the offender population.

We also have this hotline, this emotional support services hotline. So we have both. You know, it gets back to trying to create different avenues for an individual to have their needs met. If they prefer on-site counseling -- which we offer, both one-on-one and in a group setting -- they can do that. If they prefer to call the hotline and speak to someone anonymously, they have that option as well.

So we do offer both, and they are conducted by our clinical team, because we recognize the importance of providing those services.

ASSEMBLYWOMAN DUNN: So are you saying that there is an outside victim's advocate available? Independent from the agency, currently?

MR. HICKS: Yes, absolutely.

ASSEMBLYWOMAN DUNN: So when was that put in place? Because we see that the DOJ recommended that and reported that you did not have that in place by April of 2020?

MR. HICKS: So the Rutgers-- The clinician that I spoke about, those mental health clinicians, they have been on-site -- I forget the exact date. I'll have to get the exact date. But they've been on-site.

ASSEMBLYWOMAN DUNN: We may be speaking of different thing. And I'm glad that you brought this up, because there's also in the report that a woman inmate was removed from her cell and taken by handcuffs to a mental healthcare unit. She did not have a history of mental health; it was in fact done after she made a report of sexual assault.

So is this standard practice to immediately refer anyone who reports an incidence that they are, you know, declared in need of mental health services?

MR. HICKS: Definitely not. As I've stated, mental health services is made accessible to everyone -- specifically those who made allegations, but it is not mandatory; we are not dragging inmates out, and you know, taking them to the mental health unit. They are offered the services.

ASSEMBLYWOMAN DUNN: So are you saying what's listed in the DOJ report is inaccurate?

MR. HICKS: No, I'm telling-- What I'm saying to you is that what we do, what we do now -- that is not how we handle any individual who would like to access mental health services. That is not what we do.

ASSEMBLYWOMAN DUNN: I wasn't asking-- She didn't indicate she would like to access those services. She reported a sexual assault, and that's how the situation was handled. She was removed, handcuffed, and sent to a mental healthcare unit without-- And she had no prior history of mental illness.



I'm going to move on; I know our time is limited, so I just want to make sure that I get to this final point. And my question for you, again, Commissioner: Why do we need another investigation, at taxpayer expense, in light of the release of this report? What makes this investigation different from what the DOJ provided?

MR. HICKS: I'm sorry, Assemblyman, what investigation are you referring to?

ASSEMBLYWOMAN DUNN: You called for another investigation.

MR. HICKS: I did not -- I did not call for an investigation. I think you-- I don't know if you're referring to the Governor's call for an independent investigation, perhaps?

ASSEMBLYWOMAN DUNN: Perhaps; there's a parallel study, even though the DOJ has provided this information now almost a year ago. Do you feel it's necessary to have a parallel study and another investigation? What more is it going to reveal?

MR. HICKS: So I just want to clarify. If you are referring to the independent investigation that the Governor has commissioned, that is specific to the events of January 11 and 12, which is separate from the DOJ investigation.

ASSEMBLYWOMAN DUNN: What is your expectation to come from that? We talked about-- I know you've talked about implementing swift change, cultural change; that should be already in place. So again, like I said, my final point-- Because what's concerning is that it delays this ability to implement this change and overturn this system, and also at a waste of taxpayer resources.

Would you like to speak to that?

ASSEMBLYMAN MUKHERJI: Assemblywoman, is it fair for me to clarify that your question is referring to all of the things we've been hearing about Edna Mahan generally, and not with respect to the Boxer report as to January 11? Because--

ASSEMBLYWOMAN DUNN: That's correct, thank you, Chairman.

MR. HICKS: What I'll say -- what I'll say, Assemblywoman, is that, again, we welcome all input from anyone: stakeholders; the legislators. We want to work in concert with all interested parties, because we all have the same goal in mind -- which is to improve the culture at Edna Mahan. And I've stated from the beginning -- not just today, but from the beginning of my tenure -- that that is my number one priority.

So anybody who has input -- stakeholders; you all -- we stand ready -- inmates-- To speak to the Assemblywoman's point, we stand ready to work with all to make the necessary changes to change things.

ASSEMBLYWOMAN DUNN: Thank you.

That concludes my questioning. Thank you.

MR. HICKS: Thank you.

ASSEMBLYWOMAN MOSQUERA: Thank you so much, Assemblywoman Dunn; I greatly appreciate that.

Commissioner, I just have one follow-up, and then I'll turn it over to Chairman Mukherji. It's just a basic one.

You-- I guess it was another member who asked you about grievances, and you said that Department-wide-- Let me take that back. Maybe reports or-- I'm kind of a little bit confused.

You said Department-wide there's 268-- Were those grievances, or those just reports, or those were inquiries? I know that you made categories.

MR. HICKS: Yes, those were -- that 268, Assemblywoman, refers to the PREA allegations that we received in 2019.

ASSEMBLYWOMAN MOSQUERA: Okay, and then for this current -- for the women's facility, there were only 22?

MR. HICKS: I believe there was 22 -- yes; 22 PREA allegations filed specifically at Edna Mahan.

ASSEMBLYWOMAN MOSQUERA: And then you also mentioned that they are current-- So have they all been resolved? I just want to get that clear.

MR. HICKS: So I was speaking -- we were talking about PREA allegations and also grievances. Grievances can be about any topic, not just PREA allegations. They can be about housing; they can be any complaint, essentially, that an inmate would like to bring to the attention of the Administration. It could be food; it could be inquiries about classification; all sorts of topics.

Those were the ones that were addressed in the Ombudsperson's report. The PREA allegations, as I have mentioned, are separate; it's a separate reporting.

ASSEMBLYWOMAN MOSQUERA: And the PREA allegations -- are those in a nature that are more serious and egregious?

MR. HICKS: Without a doubt. The PREA allegations are the ones that are-- Individuals are making allegations of sexual abuse or sexual harassment.

ASSEMBLYWOMAN MOSQUERA: Okay. Thank you very much, that's all I have.

Chairman.

ASSEMBLYMAN MUKHERJI: Thank you, Madam Chair.

Commissioner, it's good when we talk. Not everything today has been discouraging.

I think that where you are, what you reported earlier in terms of the disposition of thousands of complaints that were previously stalled; some of the remedial measures that are underway from the April 2020 report; the fact that a Consent Decree and Federal monitors are truly imminent -- not everything today is discouraging.

I look forward to a number of my colleagues joining you and me on the 19th, and seeing in-person how some of these things have been implemented. Still, so many questions -- and we won't get to them today with fifteen minutes remaining -- but I do want to round out this discussion with a couple of final questions on the heels of what Chairwoman Mosquera asked.

So let's talk about SID a little bit -- we started to before. So they're meant to be independent of the facility staff; I know that they're in your Central Office. I want to talk about their independence in practice, because they are the watchdog internally in terms of criminal investigations; they're your IA arm. And then of course the Ombudsperson is the external watchdog, and his powers -- that Office's powers, his or hers -- were, you know, in a very meaningful way, were buttressed by the Dignity Act.

In fact, we're going to hear from subject matter experts this afternoon; but we've talked to many of them and I think they will suggest

that the Dignity Act legislation -- which Assemblywoman Lopez and Senator Greenstein, and other sponsors deserve credit for, their hard work on it -- was one of the most robust prison reform frameworks in the country. But it's a matter of implementing all of the provisions of the law.

So are SID Officers -- are they still assigned to specific facilities, and is that something that makes sense to you? Is that something you've explored changing? And what kind of actions do you think -- have you been looking at taking to ensure the true independence of SID; and particularly with regards to the types of allegations we've seen at Edna Mahan over the years?

MR. HICKS: Mr. Chairman, I will say that ensuring the independent nature of these investigations has to be paramount to us. And so to answer your question specifically: Currently, yes, we do have SID Officers stationed at the facilities, but we also have multiple SID units stationed here at Central Office.

One of the discussions that I have had most recently with the SID unions is this idea of creating a Special Victims Unit that will operate out of Central Office to address some of the issues that you're bringing up. These individuals will be based out of Central Office headquarters; of course would receive specialized training that is commiserate with their role as investigators of PREA. But ultimately they would be housed out of Central Office and not based in the facilities.

And I know that the unions, in our discussions, have indicated support for that. It's something that, as a best practice, the Department should consider. We're currently auditing our SID unit in terms of staffing to see if we were to move forward how we would make that happen.

But I think it's those types of things that would be helpful.

ASSEMBLYMAN MUKHERJI: Are SID interviews videotaped?

MR. HICKS: Yes.

ASSEMBLYMAN MUKHERJI: All of them? Okay.

MR. HICKS: Yes.

ASSEMBLYMAN MUKHERJI: Are they-- Do they give warnings? Self-incrimination, right to a counsel, all that, to the interviewee when an Officer is being investigated by interview by SID?

MR. HICKS: Yes.

ASSEMBLYMAN MUKHERJI: Okay. Now, can inmates review SID reports if they are an accuser -- if they are an alleged victim?

Do you know?

MR. HICKS: I would need to get back to you on that. I do know that once an investigation is completed, especially if it's PREA, the inmates are notified -- and oftentimes in person. But in terms of whether they get to review the actual report, I'm not certain. I would have to get back to you on that.

ASSEMBLYMAN MUKHERJI: Yes, I would be curious even if a summary of these interviews are made available to inmates or their attorneys. How do they know if anything is being done and what the accused is saying?

MR. HICKS: Well-- Mr. Chairman, for attorneys -- so attorneys, it's different. So attorneys, we will provide that information for inmates who are represented by attorneys.

ASSEMBLYMAN MUKHERJI: Well, I'm not sure how you could-- An inmate might be proceeding, per se. I'm not sure how you could offer a document to counsel for an inmate and not make it available to the inmate themselves. I think prisons are notorious for jailhouse lawyers who might not actually be degreed or barred. But that's a separate question, and maybe you can follow up on that and we can talk further about it.

These follow-up reports in terms of the retaliation; in terms of collecting the grievance-- Right, because this is one of the schematic problems we see throughout the Federal report, and we've heard about it before, and we've heard that we've improved on these processes. And it's not clear to me from what, you know, we've been hearing over the past few weeks that the process is much different, and you might be able to offer some guidance on this.

So how do you get the grievance or PREA complaint if it's filed by paper? How does that go to the Ombudsperson, or the external reporting authority that you have to keep as a potential destination for these complaints -- right? Required to do that by law; especially if it's an abuse or a sexual assault complaint, or a retaliation complaint. How does that get from a cell to the Ombudsperson or to the external agency, to the Attorney General's Office, to criminal investigators, to the Prosecutor's Office?

Do they have to fill out a form, close it, put it in a box? Do they hand it to the CO?

MR. HICKS: So yes. (laughter)

To answer your question, if an inmate decides to use the paper grievance -- which again, most don't because we have a JPay system -- but if they do--

ASSEMBLYMAN MUKHERJI: JPay is electronic?

MR. HICKS: Correct; JPay is electronic.

But if they decide to use the paper route, there is a box -- a locked box -- that we have on the units, and they can put the paper grievance inside the box. It is confidential but, you know, the papers have to be collected. They are -- by Administration -- and then if an allegation is made, then that same process that I had mentioned earlier is followed.

It makes its way over to SID. If it's not PREA-related and is just a regular grievance, it will make its way to Administration for processing.

ASSEMBLYMAN MUKHERJI: Commissioner, if I told you that I'm being told that paper reports don't make their way to SID -- maybe don't make their way anywhere -- would that surprise you?

MR. HICKS: I would be surprised, and I'll tell you why. Because, first of all, if that is happening, it's 100 percent against policy -- that's number one. And there's remedial action for that.

But you know, the second thing is that I believe that -- especially with PREA -- that our officers, outside of the bad actors -- they understand the importance-- And especially with the legislative mandates that come with fines for not reporting or, you know, impeding someone's ability to report incidences of sexual abuse or sexual harassment. I think that's something that would be surprising.



However, that's something that we would have to address. And to be honest with you -- quite honest with you -- the paper system in general -- which is the reason why we prefer individuals to utilize the JPay -- but most people when they report, they're reporting directly to a staff member. That still makes up the bulk of the ways in which people are reporting. They are actually telling someone--

ASSEMBLYMAN MUKHERJI: But we've heard repeated reports, though, that staff refused to take verbal reports; which you just stated is the most frequent manner of reporting.

MR. HICKS: Yes.

ASSEMBLYMAN MUKHERJI: So that goes back to this culture of impunity. Not only that, but they're also fearful of making those reports which ultimately are, in some cases, being refused because they might -- well, in the past, they'd be taken to solitary right away, automatically, for making a complaint like that. Or, now, they're probably fearful of getting punched 27 times, or having bones broken, or sexual assault committed upon their person, upon their bodies.

So let's talk about the retaliation as we-- I do have a couple questions; I want to save a few minutes at the end here for the Ombudsperson. But let's just talk briefly, Commissioner, about retaliation.

So these 90 day follow-up reports where you're monitoring for retaliation -- who is doing the monitoring? Hang on, let's just go back to JPay for one second, because we were talking about the paper reporting. JPay is a phone system, right?

MR. HICKS: It's a kiosk; a kiosk, electronic communication system. Keyboard.

ASSEMBLYMAN MUKHERJI: Is it monitored? Or does it go straight to-- Can it be monitored by staff on-site at the facility, or does it go straight to-- Is it a batphone to the Ombudsperson or SID? If there's a new SVU formed with an SID -- where does it go?

MR. HICKS: So the answer is it can be -- it can be operated so that it goes straight to SID.

ASSEMBLYMAN MUKHERJI: Does every inmate know how to operate it in that manner?

MR. HICKS: Oh, absolutely. Yes; that's part of the -- so that's part of the inmate education that I spoke about earlier.

ASSEMBLYMAN MUKHERJI: And they're assured of its confidentiality?

MR. HICKS: Yes.

ASSEMBLYMAN MUKHERJI: And you take steps to make sure that they trust it's a batphone?

MR. HICKS: Yes.

ASSEMBLYMAN MUKHERJI: Can you use JPay for other things, so that it's not automatically assumed by a guard, who this inmate might fear retaliation from, that if they're at the terminal, they're dimming somebody out?

MR. HICKS: That's absolutely correct. So you would utilize JPay for routine things such as sending email messages to your family members; music, pictures, things like that. And it also has that function of being able to be utilized for making reports. And as I mentioned earlier, we also have a screen -- a screen now around the kiosk so at least you can ensure that confidentiality.

ASSEMBLYMAN MUKHERJI: Anti-glare, they can't-- The contrast is such that they can't read over your shoulders or whatever.

MR. HICKS: Yes.

ASSEMBLYMAN MUKHERJI: You'll show us this when we go through the facility.

So if they're so well trained on JPay and that system, why are paper complaints or the verbal complaints so paramount? Why aren't they just all using JPay?

MR. HICKS: That I can't answer. I mean, I think some -- some offenders may just have a preference for, you know, actually filling out paper. I can tell you that a majority of our inmates are utilizing the JPay system for everything. It's certainly technology-- It's certainly easier, in my opinion.

ASSEMBLYMAN MUKHERJI: All right, thanks, Commissioner. Who monitors the 90-day follow-up reports?

MR. HICKS: So as I mentioned, at the institutions we have a designated Institutional PREA Compliance Manager. That individual, who is typically an Assistant Superintendent -- they are responsible at the facility level for monitoring the retaliation. And of course we also have a Central Office committee.

ASSEMBLYMAN MUKHERJI: What if they're disciplined during the period that it's being investigated? What if the inmate, you know, receives disciplinary action during that period? What happens to the complaint? Does it affect the complaint, or it stays on the same track?

MR. HICKS: So if there's a discipline-- So if the inmate has made an allegation and that inmate is disciplined within that 90 days, that

triggers an investigation into that discipline. It's not just discipline, it's anything that would adversely impact the inmate -- housing changes, taking them out of a program. Any of those things will trigger an investigation to see if there's possible retaliation.

ASSEMBLYMAN MUKHERJI: How many times have you found -- has the Department found instances of retaliation in the past year, or the last year, if you have that data.

MR. HICKS: I could get that information for you.

ASSEMBLYMAN MUKHERJI: Okay. You identified retaliation occurred. What happens then?

MR. HICKS: So if we've identified that there's been retaliation, that's a violation of our policy, and appropriate disciplinary action may take place. It could be a range from suspension, depending on the circumstances, all the way up to removal; but also, retraining. There is a lot of remedial action that we could take if that happens.

ASSEMBLYMAN MUKHERJI: All right. Can we call upon Mr. DiBenedetti?

MR. DiBENEDETTI: Yes, sir.

ASSEMBLYMAN MUKHERJI: Thank you Mr. Ombudsperson.

So going back to the timeline -- I'm going back to some of these requirements of the Dignity Act, which made your Office -- which has been around for a long time, as have you, as we learned today -- or at least as I learned today. One of the most-- Potentially one of the most robust watchdogs, external watchdogs of the State prison system in the country.

First of all, based on your understanding of the Dignity Act, would you agree with that characterization of the law as it relates to your Office and your expanded powers over the last year?

MR. DiBENEDETTI: With parts of it I do, sir, but I believe there is some confusion with this. I believe that some believe that this Office staff has the ability to investigate criminal actions, and we're not -- we're not law enforcement agents.

ASSEMBLYMAN MUKHERJI: I don't-- And if there is confusion, forgive me, because I'm reading the statute; so I must be confused.

I don't read this as suggesting that you should become the prosecutor or criminal investigative agency; that is not your function, and I don't read the Dignity Act as modifying your role in that way. And I didn't mean to imply that I thought it should.

But I do think that, and I am wondering -- and I recognize this as PREA revision to your Office's role and powers under the Dignity Act. But I don't understand, if we have an Ombudsperson who had some of these powers -- and was tasked, was charged with some of this -- even prior to the April 2020 report, in the time period during which Federal civil rights investigators were in Edna Mahan, why we learned about this stuff from a Federal report.

In other words, why didn't it come from you? Why weren't you doing this over the course of the last decade, such that--

MR. DiBENEDETTI: We can only report on the contacts and the complaints that we receive. If an inmate doesn't reach out to this Office to complain or ask us for assistance, then we're not aware of it.

ASSEMBLYMAN MUKHERJI: So the problem comes from the fact that they're not--

MR. DiBENEDETTI: Only if those-- Any complaints of that nature would have been referred to the Department of Correction and their Special Investigations Division.

ASSEMBLYMAN MUKHERJI: Okay. You're tasked with establishing the procedures to receive, investigate, and resolve complaints, right?

MR. DiBENEDETTI: Yes.

ASSEMBLYMAN MUKHERJI: Okay. And you have to make available to the Governor and us, as the Legislature, various reports on a lot of this stuff.

I went on the website, as you mentioned earlier today-- I can't do a screen share, apparently, because I'm not a host in the technical sense, but I'm just going to pull it up real quick. So on your website, under reports and inspections, I am looking at "Annual Report for 2020," and I am looking at where it has the State prison facility inspections. And forgive me if it looks like I'm not looking at you, because I'm just alt-tabbing, because I don't have the Zoom in front of my screen.

And it's got-- Let's see, we've got all the facilities listed. It looks like there's announced and unannounced inspections of only two facilities. Now, I know you mentioned you just started doing this recently -- is that because you haven't gotten to the others?

MR. DiBENEDETTI: We just started doing it because we recently received additional staff. The Office was understaffed, and we were so overwhelmed with COVID contacts and questions about public health

credits and-- We had to cover the Office and the 11 facilities, so we just didn't have the staff available.

We've recently hired four additional Assistant Ombudspersons, and we are in the process of hiring two more.

ASSEMBLYMAN MUKHERJI: So that's helpful? Because that's one of the things that, as a Legislative Joint Committee, we look at. So how many people work for you? Are you still understaffed?

MR. DiBENEDETTI: Yes.

ASSEMBLYMAN MUKHERJI: Okay. How many people work for you?

MR. DiBENEDETTI: Nine.

ASSEMBLYMAN MUKHERJI: And how many people worked for you before?

MR. DiBENEDETTI: We were down to our lowest: six people. Well, that would make five, working for me.

ASSEMBLYMAN MUKHERJI: How many should work for you?

MR. DiBENEDETTI: This Office--

ASSEMBLYMAN MUKHERJI: If you were able to do your job as prescribed by the Dignity Act?

MR. DiBENEDETTI: This Office at one time had 16 staff members; it was cut down to 12, and then it was cut down to 8.

ASSEMBLYMAN MUKHERJI: Was 16 enough?

MR. DiBENEDETTI: I believe it was.

ASSEMBLYMAN MUKHERJI: Okay. So you're at 9, and you think 7 more people could have perhaps led to the implementation of all of the Dignity Act requirements more quickly?

MR. DiBENEDETTI: Absolutely. I think the shortage of staff in combination with COVID-- And believe me, sir, I'm not trying to make excuses; I just think that's what happened here.

ASSEMBLYMAN MUKHERJI: So part of the requirements is the Ombudsperson is supposed to identify systemic issues and responses, and then-- So it's a direct channel to us. And you're vested with the authority to conduct both scheduled and unannounced inspections of any part or all of the facility at any time.

I have to understand something. So Edna Mahan -- you haven't inspected Edna Mahan, I guess, since you've been vested with this authority, it looks like? At least you didn't publish a report on it, if you did?

MR. DiBENEDETTI: Not yet, no.

ASSEMBLYMAN MUKHERJI: All right. Let's talk about the-- I've got these two reports up; you have Garden State Youth Correction Facility and New Jersey State Prison -- that's Trenton, right? Yes.

So you've got an announced inspection report published on March 24 and March 31, respectively -- so it was recent from both facilities. Then you have the unannounced inspection and response on March 24 and 31 -- coincidentally, those are the same days.

MR. DiBENEDETTI: Yes. What we've done with that--

ASSEMBLYMAN MUKHERJI: Yes, an inspection on the same day as an announced inspection.



MR. DiBENEDETTI: We announced that we were going to come and we gave them the unit that we were going to inspect; and upon completion of that we chose another unit in that facility to inspect that they were not aware of, in order to complete two units in the same day with the same staff.

ASSEMBLYMAN MUKHERJI: So it's unannounced because you went to a different unit in the same prison--

MR. DiBENEDETTI: They would have no idea what unit we would choose.

ASSEMBLYMAN MUKHERJI: But they're prepared you're coming, right?

MR. DiBENEDETTI: Not necessarily.

ASSEMBLYMAN MUKHERJI: I'm not sure what's happening right now.

That prison knows you're coming, and your staff -- and your short staffed -- the inspectors, so to speak -- go there on the day that the entire prison staff, like the warden and the folks in charge, might be like, "get the house in order, the Ombudsperson is coming tomorrow."

Don't you think if they don't know that you might -- what housing unit you're coming to, they're just going to be prepared at all of the units at that prison? Which means the unannounced inspection is kind of duplicative of the announced inspection, they're just at two different units?

And maybe I'm missing something; in which case I apologize for my mediocre intellect.

MR. DiBENEDETTI: No, that's fine; we could certainly change it and go to a separate facility -- and once we get more staff, we'll be able to do more of these inspections as well.

ASSEMBLYMAN MUKHERJI: Okay. Just how are-- And maybe this is a coordination question with DOC. What steps has your Office or the Department taken to ensure that these inmates can contact you in a confidential -- and through a privileged channel -- which is one of the glaring sort of shortcomings that the Federal report noted, and one of the problems that we have when it comes to the fear of retaliation?

And have you-- Do you get involved? Or is not your role to make sure that Administration staff at each facility-- Because I recognize you might not go in there; especially with nine people, you might not have the ability to brief all of the inmates. But has Administration staff at every prison -- in our case, for today's inquiry, Edna Mahan is what I'm asking about specifically -- been briefed on the new law, on all of your authority under the new law -- the fact that they have to accommodate all of your requests? The fact that if you recommend remedial measures after a facility inspection, they can't blow you off? All of these are requirements of the law.

Have those been implemented-- Have you briefed them on it? Do they know that it's suppose to be a big deal if they don't do what you tell them to do, and that your inspections are supposed to be a big deal?

MR. DiBENEDETTI: Yes. Before we started the inspections, we did provide the inspection report to the Division of Operations staff at the Department of Corrections, and they informed all of the Administrators that we were going to begin this process. And they've all been made aware

of that, once they return the report to us with any of their comments and their actions taken, the report is posted online on the website.

ASSEMBLYMAN MUKHERJI: I am reading the inspection reports, and they kind of look like clipboard checklists to me. I'm going to be honest with you, I have no training to do this kind of stuff; and when the other Committee members and I go to Edna Mahan on the 19th, I'm going to bet we'll be able to find deficiencies on this checklist without much effort. I'm just reading the pages on it and not necessarily-- That doesn't mean those are things that might be minor in nature, but I'm just reading the checklist; I wish I could screen share and go down it, but we don't have the time to do that.

I do have a final thought, or category of two or three questions for you. Well, first of all-- So does that mean-- When was the last time you were at Edna Mahan, or any of your inspectors?

MR. DiBENEDETTI: We have someone there -- she was there on Tuesday. And she will be there tomorrow.

ASSEMBLYMAN MUKHERJI: Was it part of an inspection?

MR. DiBENEDETTI: No, not an inspection; just to interview inmates and collect mail. So she would kind of be touring some areas, but not doing a formal inspection.

ASSEMBLYMAN MUKHERJI: When was the last time-- So you've never done a formal inspection at Edna Mahan, is that right?

MR. DiBENEDETTI: No, sir, we've only done three so far.

ASSEMBLYMAN MUKHERJI: When was the last time you were at Edna Mahan?

MR. DiBENEDETTI: Physically? Probably I would say maybe towards the beginning of last year.

ASSEMBLYMAN MUKHERJI: So since the Dignity Act has passed, you haven't been to Edna Mahan; and you've done three inspections. But given all that's been in the news, you didn't think Edna Mahan maybe ought to be the first place meriting one of these inspections?

MR. DiBENEDETTI: Sir--

ASSEMBLYMAN MUKHERJI: I'm just trying to understand that-- On April 19, I will have gone to Edna Mahan Correctional Facility for Women as a lawmaker more times than the Ombudsperson has, and--

MR. DiBENEDETTI: But we have staff there, we have Assistant Ombudsmen that go there. We have 11 facilities to cover, sir.

ASSEMBLYMAN MUKHERJI: Okay, but you do acknowledge that the allegations of the -- surrounding the culture of impunity, the systemic abuses and sexual assaults, and the problems that we are investigating today at Edna Mahan are at a special level, even among all of the other prison systems? Or do you disagree with that?

MR. DiBENEDETTI: No, I understand what-- I absolutely agree with you.

ASSEMBLYMAN MUKHERJI: Okay. I think that that concludes my questions.

Chairwoman Mosquera, had you asked your last question?

ASSEMBLYWOMAN MOSQUERA: I just have one question for the Ombudsman-- Actually it's one or two, just for clarification.

Thank you, Mr. DiBenedetti for being here.

My question to you is just very basic: So what is the main goal of your Office?

MR. DiBENEDETTI: Our Office is to address all the complaints or concerns and inquiries received in the Office from the inmate population, as well as the general public.

ASSEMBLYWOMAN MOSQUERA: Okay. Do your complaints come more from-- How do the inmates know that you are a resource to them?

MR. DiBENEDETTI: They know there's-- It's in the inmate handbook that they receive upon entry; they observe our staff in the facilities when we're touring and interviewing inmates. They all talk to each other, they know they can reach out for assistance; the families call us, the attorneys call us -- everyone. The inmates can call toll-free.

ASSEMBLYWOMAN MOSQUERA: Okay. And then I guess the next question is -- I'm not sure if you know this off the top of your head, or you might; and it's okay if you have to get back to me -- but how many complaints have you received from the women's facility, I guess during your tenure in your Office?

MR. DiBENEDETTI: I can get you that information from a database that we keep; all the complaints are entered, everything that's received is entered, and we also keep hard copy files for every inmate who contacts the Office.

So on the annual report that is posted on the website, there are figures for that reporting period.

ASSEMBLYWOMAN MOSQUERA: Do you have any -- I haven't had a chance to look at your website, but do you have any reports concerning the women's facility?

MR. DiBENEDETTI: Well, the annual report in there, it contains information regarding all the facilities.

ASSEMBLYWOMAN MOSQUERA: Okay. So when you report, it's not separate report for each facility, it's just one report and then each-- And within the report there is sections? Is that what you're saying?

MR. DiBENEDETTI: Correct.

ASSEMBLYWOMAN MOSQUERA: Okay.

That's basically it; thank you very much.

ASSEMBLYMAN MUKHERJI: Thank you, Chairwoman.

I said I was done, and I hate to be an Indian giver -- I think I can uniquely get away with saying that. But I just have two more.

With the grievances that you receive, Mr. DiBenedetti, do you have an update on how many are resolved versus-- Because I think when we look at the numbers it's 3,000-something versus the ones that were disposed of. Does that mean the rest of them-- The ones that are open and outstanding, rather -- sorry -- does that mean the rest have been resolved?

MR. DiBENEDETTI: In the report, those that were reported, you're asking about?

ASSEMBLYMAN MUKHERJI: Yes, sir.

MR. DiBENEDETTI: Yes. They've all been resolved. Anything that was outstanding at that time; correct.

ASSEMBLYMAN MUKHERJI: And have you expressed or have you raised the concerns about being understaffed to anybody at any

point? Have you told anybody you need more folks, “I’m unable to do the job that the Legislature tasked me with,” with the expanded role under the Dignity Act?

MR. DiBENEDETTI: Yes, sir.

ASSEMBLYMAN MUKHERJI: Who?

MR. DiBENEDETTI: The Governor’s Office staff.

ASSEMBLYMAN MUKHERJI: Okay. How long ago?

MR. DiBENEDETTI: We’ve had ongoing discussions since the Bill was passed.

ASSEMBLYMAN MUKHERJI: That’s within the fiscal year. When--

MR. DiBENEDETTI: Prior-- I should say prior to the Bill being passed, yes.

ASSEMBLYMAN MUKHERJI: Okay. When were you cut from 16 to 12, and when were you cut from 12 to 9?

MR. DiBENEDETTI: The 16 -- when the Office of the Public Advocate was abolished, shortly after that we were cut down to the 12. And then-- I’d have to research the exact dates for you. Then as staff retired, we were just never given approval to refill those positions, so then it slowly trickled down to 8 at our lowest point.

ASSEMBLYMAN MUKHERJI: And did you ever come to us? You have a direct reporting relationship to the Legislature under the law -- right? -- under the mechanisms set up in the law.

MR. DiBENEDETTI: Yes. I did not come to you.

ASSEMBLYMAN MUKHERJI: Okay. You might be a good person and well-intentioned; I don’t have the benefit of knowing you. I do

know, and just from everything we've gone through today -- this is an off-the-cuff reaction, and maybe it's one that isn't fair to make -- that we've empowered your Office to be one of the most powerful in the country, and I recognize that that was recent.

And I'm just reading the purportedly unannounced, as well as the announced, inspection reports and your annual report, and it looks like kind of just a check-the-box perfunctory exercise, when your Office could be so much more -- and if it had been, I would hope I wouldn't be reading the April 2020 report from the Justice Department.

And it could just be that you're not a war-time consiglieri; I'm not sure. But I leave here very disappointed -- no disrespect intended -- with what I heard so far. But it's just an observation.

We're going to break for lunch and we'll resume--

ASSEMBLYMAN DePHILLIPS: Mr. Chairman, I have a couple questions of the witness; I don't know if other members do.

ASSEMBLYMAN MUKHERJI: We don't have another round, except that we almost did before 1:00, and then when I was told that we didn't have any more, I had -- I took the liberty. But Assemblyman, if you could ask one or two, and then we'll break for lunch. Is three minutes okay?

ASSEMBLYMAN DePHILLIPS: Yes, it's fine. Thank you.

Sir, you've been the Ombudsman since 2009, correct?

MR. DiBENEDETTI: Yes.

ASSEMBLYMAN DePHILLIPS: Okay, I'm trying to get a handle, like some of the other members, on what your Office actually does.



So since that time, has your Office ever made any policy recommendations to the Department of Corrections? I know you do inspections, I know you do investigations, but do you get into the policy arena after you've developed facts around an inspection or an investigation?

Do you make policy recommendations to the DOC?

MR. DiBENEDETTI: Yes. We've always met with the DOC regarding any complaints received and made recommendations to them; yes.

ASSEMBLYMAN DePHILLIPS: Okay. So since 2009, have you ever made any policy recommendations to the DOC regarding specifically the Edna Mahan facility?

MR. DiBENEDETTI: Sir, I don't recall making any because, like I said, we received very few complaints of that nature from inmates at Edna Mahan.

ASSEMBLYMAN DePHILLIPS: And that holds true, in your mind, from 2009 to the present time?

MR. DiBENEDETTI: Regarding the number of complaints, regarding any type of sexual assault and harassment? Is that what you're asking me?

ASSEMBLYMAN DePHILLIPS: Yes.

MR. DiBENEDETTI: Yes.

ASSEMBLYMAN DePHILLIPS: So it was your belief from 2009 to the present time that all was well at the Edna Mahan facility?

MR. DiBENEDETTI: No, sir, that's now what I'm saying.

What I'm trying to just clarify is that we received minimal complaints of that nature.

ASSEMBLYMAN DePHILLIPS: Okay. And were any of the complaints serious enough to warrant policy recommendations or escalating those complaints?

MR. DiBENEDETTI: Any complaint of that nature would be escalated to the Department of Corrections, executive staff, and the Special Investigations Division.

ASSEMBLYMAN DePHILLIPS: Well, let me ask you this. Prior to January 11, what was your overall assessment of the conditions at Edna Mahan?

MR. DiBENEDETTI: Based on complaints we received and what we observed-- I mean, you're asking -- that's a tough question.

ASSEMBLYMAN DePHILLIPS: Well I know it's a tough question, but I think we need an answer. You're our Ombudsman and we want to know what you thought of the conditions at the facility -- and I'll say prior to January 11.

MR. DiBENEDETTI: I didn't-- Like I said, the conditions weren't unacceptable. I didn't believe them to be unacceptable, no.

ASSEMBLYMAN DePHILLIPS: And have you changed your opinion since January 11?

MR. DiBENEDETTI: Well, you're talking about conditions and the actions of staff, so now we have concerns since January 11, absolutely. Of course.

ASSEMBLYMAN DePHILLIPS: But there's a long history with respect to this facility prior to January 11; and I'll join the Chairman in saying that I'm very concerned that your Office did not really have Edna Mahan on its radar, with respect to the safety of these women inmates.

MR. DiBENEDETTI: Sir, I can assure you that any complaint or concern that was brought to our attention by the individuals at Edna Mahan, we addressed it. I can assure you that.

ASSEMBLYMAN DePHILLIPS: Okay; I'll leave it there. Thank you, Mr. Chairman--

MR. DiBENEDETTI: And if someone is telling you otherwise, I would like the opportunity to provide you with information regarding their contact, if you have a specific inmate.

ASSEMBLYMAN DePHILLIPS: Fair enough. Thank you, Mr. Chairman.

ASSEMBLYMAN MUKHERJI: Thank you, Assemblyman.

We'll reconvene at 2:00 after recess, so that the speakers for the remainder of the day will appear in the following order: Assemblywoman Yvonne Lopez, first primary sponsor of the Dignity Act, will speak in a moment; she will be followed by Nafeesah Goldsmith; to be followed by Dr. Marilyn Van Deiten; Ms. Lydia Thornton; Dr. Todd Clear; and Tess Borden.

(RECESS)

And together with Chairwoman Mosquera, we will call this meeting back to order and welcome Assemblywoman Lopez.

**A S S E M B L Y W O M A N Y V O N N E L O P E Z:** Thank you; thank you so much. Thank you Chairman Mukherji, Chairwoman Mosquera, and members of the Assembly Judiciary and Women and Children Committees. Thank you for the opportunity to speak at today's

joint hearing on the systemic issues facing our correctional facilities in New Jersey.

At the forefront of this hearing, we must all remember that prisoners are people. They are mothers, they are fathers, sisters and brothers, with family and friends awaiting their return. And to deny them of their humanity, dignity, and basic rights while serving their sentence is an affront to the basic values we all share and the values of this great State of New Jersey.

Almost three years ago I began a journey to advocate for incarcerated individuals who bravely shared their stories of trauma, abuse, horror, and pain. Together we worked to craft a bill that was set to change the culture of our correctional facilities, to ensure that the prison experience remained focused on the goal of rehabilitation rather than causing further trauma. At its core, the Dignity Act was designed to be the strongest bill in the nation; not only to save basic rights, but to also create an unbiased body to hear the concerns of inmates without fear of retaliation.

I have been horrified to hear stories of sexual assault, the shackling of pregnant inmates during birth, and the prolonged isolated confinement inmates face. And the Dignity Act set out a path to address these injustices. While incarcerated, inmates not only struggle with the reality of life inside, but also yearn to maintain their connections to those on the outside. Inmates trying to maintain a connection with their families are faced with diminished visitation hours; the inability to connect with their children; and a lack of programs that prepare them to re-enter into family life.

All of these issues create an environment where inmates fail to be rehabilitated, and instead the experience only perpetuates trauma. Additionally, the Dignity Act sought to completely reexamine and revise the Office of the Corrections Ombudsman to empower the Office, and be a source of impartial advocacy to inmates and their families. Advocates and inmates, both current and former, agree that they needed an Ombudsman who would have investigatory powers; staffed by individuals with no affiliation to Corrections and with the expertise and know-how needed to protect inmates, improve prison conditions, and ensure the confidentiality of prisoner complaints so investigations could begin without fear of retaliation -- of retribution.

Moreover, to address the constant challenges with transparency, the law sought to shed light on the statistics regarding assault, abuse, and grievances filed by inmates, for the Legislature and Administration to make improvements where needed. The law was painstakingly crafted with the inmate community, and upon assignment became not only one of the strongest prison bills in the nation, but also offers the strongest Office of the Ombudsman in the entire Country.

New Jersey has the tools and power to lead in reforming our correctional facilities, but the implementation process has not yet been successful, and the same problems that Dignity Act sought to prevent are occurring. We know that for decades, abuse has been occurring at our correctional facilities; the Department of Justice referred to the abuse at Edna Mahan as an “open secret” in the report. We know that inmates routinely face consequences or retaliation for reporting abuse, and we know that we can no longer allow these injustices to continue.

I am testifying here today not only in support of the inmate community, but also to underscore that with the Dignity Act, the Department of Corrections and the Ombudsman have the tools they need to protect the inmate community, and it is now up to them to use these tools. While the Department and the Ombudsman may claim to have a superficial compliance with the law, that remains to be seen. The intent of the Dignity Act was to challenge the current prison culture and halt the cycle of being re-traumatized and victimized. The Ombudsman, especially now, has the ability to investigate these systemic issues that exist at Edna Mahan, and the power to address those issues in a meaningful way.

I remain committed to seeing that the intent of the law is adhered to, and working towards meaningful and substantial change for inmate communities. In my work advocating for and supporting re-entry, it is clear that there is a direct relationship between the success of an individual's re-entry and their experience while incarcerated. Positive experiences lead to positive outcomes. We cannot expect individuals to lead better lives when their prison experience was marred by trauma, and until we leverage the full force of laws like the Dignity Act, thousands of inmates will suffer the consequences.

It is our job as legislators to not only create policy, but also to ensure that the policies fix the issues we seek to address. Our work here is not done, sir, and I will continue working to ensure inmates are treated with dignity and respect.

Thank you.

ASSEMBLYMAN MUKHERJI: If a member of either Committee has a question, if you could just tap the raise hand button in the lower right hand corner.

Okay, thank you so much Assemblywoman, both for your appearance today and your remarks, and also for your tireless work in this space. And we are continuing to benefit from your advice and counsel throughout this inquiry.

ASSEMBLYWOMAN LOPEZ: Thank you, Chairman.

ASSEMBLYWOMAN MOSQUERA: Chairman?

ASSEMBLYMAN MUKHERJI: Yes.

ASSEMBLYWOMAN MOSQUERA: Sorry to interrupt, but I could have sworn I saw Assemblywoman McKnight-- Do you have a comment or question for Assemblywoman Lopez?

ASSEMBLYWOMAN MCKNIGHT: Yes.

ASSEMBLYMAN MUKHERJI: Thank you.

ASSEMBLYWOMAN MOSQUERA: Go ahead, Assemblywoman McKnight.

ASSEMBLYWOMAN MCKNIGHT: Assemblywoman Lopez, I want to say thank you for being the leader with the Dignity Act.

Can you share with us who helped you make sure that the bill was-- Like what experts that you worked with, with this Dignity Act, to make sure that we bring this to New Jersey?

ASSEMBLYWOMAN LOPEZ: So we worked very closely with Tess from ACLU, with Gale Mohammed, and with former inmates.

I also want to share very quickly that back in 2018, when I was just sworn in -- two weeks after I was sworn in -- Senator Booker called my

office, because he had been trying really hard to legislate this Dignity Act on a Federal level but was not successful. So he was travelling the country introducing the Dignity Act. And I think currently we have nine states that have this into law now; and I'm happy to say that with the work with our former inmates, with advocates, with the ACLU, we have the strongest Dignity Act in the nation right now.

ASSEMBLYWOMAN MCKNIGHT: Well thank you; and I just want to commend you for including the inmates to form this legislation. Thank you.

ASSEMBLYWOMAN LOPEZ: You're very welcome. Thank you, Assemblywoman.

ASSEMBLYWOMAN MCKNIGHT: Thanks, Chairwoman and Chairman.

ASSEMBLYWOMAN MOSQUERA: Thank you. I just want to add -- Assemblywoman Lopez, I just want to say thank you for all your work on this issue. It's very important, and I do hope that not only yourself but all of us, all our colleagues, will make sure that the Dignity Act is being followed closely. And you know, this is something that's very important and we should not let this go, we should just keep making sure that the Department of Corrections is upholding its end of the bargain.

So thank you so much for all your hard work.

ASSEMBLYWOMAN LOPEZ: And thank you, Chairwoman, I appreciate your kind words. Thank you.

ASSEMBLYWOMAN MOSQUERA: Chairman.

ASSEMBLYMAN MUKHERJI: Thank you.

Next is Ms. Nafeesah Goldsmith.



**NAFEESA H GOLDSMITH:** Good afternoon, everyone. I thank you all for allowing me the opportunity to speak.

I want to first begin by saying that this is extremely hard for me. I am a survivor of Edna Mahan Correctional Facility. I was sentenced in 2004 to 15 years under the No Early Release Act. I came home June 23, 2015. My life post-incarceration is totally opposite of that prior to. So I'm going to speak to the duration of my time at Edna, and the horrific experiences that I have had, and have had to witness, being there.

This is extremely difficult for me, because, see, I was blessed with the opportunity to leave there. But I've left behind many sisters who have been abused while they were there. When I was there, the first form of abuse that I witnessed was a beating; and it was officers beating a young woman, and they were stomping her in her head. And I do not know the story around why they were doing it, but I had to witness that. I had never seen anything like that before in my life.

And then the second form of abuse happened to me. I was taken to TCC -- which was mentioned earlier, the Temporary Closed Custody--

I must say, please excuse me; I have a little one and she's quite vocal. She's 8 months old, and I'm going to try to talk around her, if you don't mind.

But I was sent there under an investigation, and they put me in what they called a "dry cell." And I was in there for five days without any water -- no water to flush the toilet, and no water to drink out of the faucet. I went into severe dehydration. I was complaining about stomach cramps, vomiting, diarrhea -- nothing was done until the fifth day when an officer

with a heart came on and called the code, and I was sent to the hospital. Before leaving Edna Mahan Correctional Facility, I was given four bags of IV on a fast drip -- before they sent me to St. Francis. When I got there they said if I had stayed another night, my organs would have begun to shut down.

But that was something that happened to me, and I grieved it. And it just so happens it happened in 2009. And I do believe that our Ombudsman -- he began in 2009. And I grieved that. And I had friends who also grieved it, because my friends -- the women who were incarcerated with me-- And I do not call them offenders, because the default assumption is that they committed a crime and they are guilty; but we all know that our justice system is not always just, and there are innocent people who are behind those gates and behind those walls. So I would like to say *incarcerated persons* and not offenders.

But many of them have gone through the abuse, and many of them are going through a trauma now that they are home. See, for myself, I also went through the sexual abuse by Officer Cottoner, who thought it was okay to grope himself in front of me; and then who thought it was okay to rub himself against me; and then who thought it was okay to make all sorts of nasty sexist comments to me. And at that point, after experiencing what it was like to be in TCC, I was too afraid to say something about it.

I'll never forget the last time I saw him, he was standing over my bed staring at me while I was sleeping, because he was working on third shift. Until this night -- I've been home almost six years -- I sleep with my bedroom door locked. It is traumatic. My sisters and my brothers have

been suffering abuses at the hands of the New Jersey Department of Corrections, and it has to stop.

This system -- this creation -- breeds nothing but a culture of abuse. It goes beyond just the training; it's also the nepotism. We talk about the individuals who are a part of SID, and you say they are a separate entity -- no they are not. These individuals were once officers. SID Officer Toner, he once was an officer at Edna Mahan. You have husbands and wives; brothers and sisters; this is how things get covered up. But it has to stop.

It has to be more than just, you know, this conversation -- there has to be an oversight. And so I would suggest that we have a committee of people -- of advocates and formerly incarcerated persons who could be a part of that. And I also suggest that on the 19th you invite myself and Lydia Thornton to come with you, because we know Edna in ways that you do not know. And you mentioned blind spots and things like that. But once again, I was there for almost 13 years, and the culture -- the culture killed my friends. The culture was two officers, officers Cruise and Booker, who stomped my friend in her head. And they lied; and they covered it up like they covered up everything. My friends who cannot speak for themselves -- they shall not go nameless.

And so in conclusion, what I want to do is just mention that Nadiyah Venable died and it needs to be investigated. Tiera Hollis was beaten. Danielle; Shirin Stallings; Shaniqua Pierre; Daisy Richardson; Tanya Leary; Natalie Tice; Shanae Holliday; Ebony Thompson; Tasha Harris; Rasheeda Smith; Shontera Jennings; Tory; Chinese McKoy; and Karen Mendoza are just a couple -- a few people who I can think of right off

the top of my head who suffered the abuses, sexually and physically, emotionally, at the hands of the Department of Corrections.

We must end this. I have a child who now has to learn that her mother has certain quirks that came from a time when she was in a place that wasn't so kind to her. What are we going to do about that, those of you who have daughters, who have nieces, who have mothers, who have wives? Would you stand around and watch a gang of men or individuals beat them and stomp them to death? What would you do? Something must be done.

And obviously the removal, the termination of Marcus Hicks -- who inherited this, it was inherited -- but I must say, he has not done enough. And our Ombudsman? I understand now why my grievances were never answered. You did not have enough staff, so you say; so I am still awaiting a response to my grievance. I'm waiting.

Thank you all.

ASSEMBLYMAN MUKHERJI: Ms. Goldsmith, the members may have a couple of questions if you would indulge us for a few minutes; is that okay?

MS. GOLDSMITH: Yes.

ASSEMBLYMAN MUKHERJI: Thank you for your courage in appearing here today.

I have a question about some of the testimony we heard this morning with respect to JPay, and the ability to file a complaint or a grievance that's related to a sexual abuse incident or a PREA complaint.

So we heard that most of these complaints are given orally; some by paper, but there's this mechanism to do it confidentially through

the electronic system. Now, I've also heard that even attorneys communicating with their clients through JPay are concerned that it is not - these are not confidential communications, because it's a monitored platform.

So can you tell me a little bit about, if you're making a PREA complaint, how physically or electronically it's made; what the process is, and why more inmates don't use JPay -- if that system was there when you were there? Can we start there?

MS. GOLDSMITH: Well Assemblyman, I want to first say to you that that system was not there when I was there; therefore I cannot answer that question. However, what I can say is that women have said that grievance process is faulty. They've also said that when they've tried to have correspondence with their attorneys that either it wasn't sent or there was something that intercepted or interjected it.

So I know that the system is faulty; I do know that just from conversation, but I don't know how to use the system because it was not in place.

ASSEMBLYMAN MUKHERJI: How did you file your grievance?

MS. GOLDSMITH: It was a handwritten grievance. I had to ask the officers for a grievance, because once I was returned back to Edna Mahan from the hospital they did not put me back in TCC, they put me right back in my old unit; where I discovered they had, you know, the physical searches of the women for a cellphone that they thought I had.

ASSEMBLYMAN MUKHERJI: Do other inmates that have undergone these kinds of abusive situations-- I've heard that they're fearful

and that these incidents are vastly underreported. Can you speak to that from your own experience?

MS. GOLDSMITH: Absolutely. Absolutely. And that's the reason why I did not speak about what happened with Officer Cottoner and myself -- because I was afraid. And I was afraid of that retaliation. You know, this Officer had been complained about for years even before me being at Edna. He had a history of doing things like that with women, and nothing was ever done because they're friends. Like I mentioned, the nepotism -- it's rampant. I was afraid.

And so that retaliation is real, and the way that appears is either they will hold your mail, they'll send your visitors away, they'll call someone -- another officer -- to come and search your area and tear up things. It's so many ways in which they retaliate against you, to the point of even writing bogus charges against you, and infractions, and having you sent to locked or restrictive housing. Which is another thing that baffles me, especially when you talk about how there's no more TCC and people are allowed out -- you know, certain cell time. That doesn't make sense, being that I know how Edna is structured-- What do they mean *cell time*?

ASSEMBLYMAN MUKHERJI: Chairwoman -- or other members -- if you want to, raise your hand if you have a question.

Assemblywoman McKnight.

ASSEMBLYWOMAN MCKNIGHT: Ms. Goldsmith, I want to say thank you for being here and speaking on behalf of your fellow sisters. And I am so sorry for what you have gone through. But you are a survivor, and I thank you for that.

My question to you is, when you filed your grievance, were you given the opportunity to speak privately about your grievance?

MS. GOLDSMITH: Absolutely not. That's unheard of.

ASSEMBLYWOMAN MCKNIGHT: Thank you.

MS. GOLDSMITH: Yes.

ASSEMBLYWOMAN MOSQUERA: Chairman, I see Assemblywoman Swain has a question; would that be okay? (no response)

Assemblywoman, please proceed.

ASSEMBLYWOMAN SWAIN: Thank you, I just want to follow up on the same questioning.

When you wanted to file a grievance, you had to go to the Office -- to an officer, correct?

MS. GOLDSMITH: Yes.

ASSEMBLYWOMAN SWAIN: So there was no other person for you-- So in other words, you might have had to go to the officer who committed this actions against you? I mean--

MS. GOLDSMITH: Absolutely.

ASSEMBLYWOMAN SWAIN: Was that the case for you?

MS. GOLDSMITH: For me, fortunately it wasn't. Fortunately it wasn't. But that is the process, right, and if anyone knew that I was complaining-- And that's another thing. The individuals who are incarcerated are not going to officers and making complaints about other officers doing things to them; that is not how it's done.

And so, for me, I would not be able to go to an officer and say, "This officer is doing these things to me." No. I would have to go to them

and say, "I need this grievance," and many of them will say, "What do you need it for?"

ASSEMBLYWOMAN SWAIN: Right; so there's no privacy at all--

MS. GOLDSMITH: So there's a deterrence -- there's a deterrence right there.

ASSEMBLYWOMAN SWAIN: I just want to say thank you for being here and testifying; I know how difficult it is, and I really do appreciate you being here to let us know what's happened.

MS. GOLDSMITH: Thank you for having me.

ASSEMBLYWOMAN MOSQUERA: Chairman, I see Assemblywoman Dunn has a question. Assemblywoman, please proceed.

ASSEMBLYWOMAN DUNN: Thank you; thank you, Ms. Goldsmith. It's nice to hear your 8-month-old in the background, given this difficult topic to cover.

Two questions: Are there moments where inmates are by themselves with one officer; and is that ever explained as a policy that's, you know, against policy, or is that something that had occurred frequently? I think you know what I'm getting at, right?

MS. GOLDSMITH: So what I will say to you is-- I can only speak to when I was there. So I left there in 2013 to go to Bo Robinson.

So when I was there, yes, there were many opportunities for officers to be alone -- one officer with one inmate. And usually if you were an inmate who had, like, a detail job, or some sort of job that allowed you access to the institution during times when other inmates would-- Like if you worked in the infirmary, if you worked outside detail -- you cut the



lawn, you painted -- certain jobs allowed for that -- mason. A lot of-- You're alone with that officer. You may have to go to the shed and get new tools, or you have to go to the shed and get a lawn mower, and maybe while you're in the shed you'll get something else.

But yes.

ASSEMBLYWOMAN SWAIN: And my only other question is with regard to the grievance process. So it's my understanding that at the time you were there, there was no other third-party, if you will -- or an outside person -- someone who you could bring the grievance to, someone who was there on-site, perhaps, but not an officer. A civilian.

So when you were there, was there anyone who filled that role?

MS. GOLDSMITH: When I was there it was picked up by the grievance sergeant, and that's why a lot of the grievances never made it to where they were supposed to go; because it was intercepted by custody. And they would read the grievances, and then they would share the contents of the grievances with the officers, and then the officers would retaliate against the inmates. That's how it went when I was there.

ASSEMBLYWOMAN SWAIN: Thank you.

ASSEMBLYMAN JOHNSON: Raj?

ASSEMBLYMAN MUKHERJI: Sure.

ASSEMBLYMAN JOHNSON: I'm sorry -- Chairman. I have, if I-- Can I go next? I only have one quick question.

ASSEMBLYMAN MUKHERJI: Please.

ASSEMBLYMAN JOHNSON: I can go now?

Thank you for your testimony, number one. We've heard a lot today and it's heart wrenching what we've heard.

Did you have access to a minister or a priest or a religious leader for spiritual guidance or just to speak to?

MS. GOLDSMITH: Yes, yes I do; and I also welcome all. I think as much positivity as we can have in our lives -- especially today -- it's necessary and it's needed.

But trauma is real, and you can't get over it--

ASSEMBLYMAN JOHNSON: I meant when you were confined -- I meant when you were confined to Edna Mahan.

MS. GOLDSMITH: Sir, listen. Their process for spiritual, spirituality -- you do have a chaplain's office, yes you do. And I must say that they are useful; however, in times like that, it goes beyond needing someone -- a chaplain to speak to, because their abilities are limited -- right? If you are someone that it seems like the inmates are coming to for their complaints, and you're following through with their complaints -- now you're a problem, and they're going to target you at the gate and they're going to do things to you, now you're going to be harassed.

That is the culture that I'm talking about. No one is exempt from that culture. There are nurses and medical staff who are bullied by custody; there are-- It goes beyond just what happens to the individuals who are incarcerated there.

ASSEMBLYMAN JOHNSON: Okay; thank you.

MS. GOLDSMITH: It's a cancer.

ASSEMBLYWOMAN MOSQUERA: Chairman, I have a question or two, actually, for Ms. Goldsmith.

Ms. Goldsmith, thank you so much for being here, and I want to say I appreciate you telling your story. I know it's difficult and

traumatic; I want to say that you are very brave, and thank you for joining us today.

My first question is, would you say that the information concerning the Ombudsman is readily available?

MS. GOLDSMITH: The contact information is always readily available; the issue is that no one ever responds.

ASSEMBLYWOMAN MOSQUERA: As a former inmate, did you have any confidence in the Office of the Ombudsman?

MS. GOLDSMITH: Initially, when you come in and you're going through your intake process, and you're told about these entities and what they do and who they're for, and if something isn't right you report it to the Ombudsman. But when you've called, and you've called, and you've called, and you get no answer -- eventually after years of that, you realize that everyone gets the same result and it's like, who calls the Ombudsman? Nothing happens; they don't even answer the line.

So once again, we need a new Ombudsperson.

ASSEMBLYWOMAN MOSQUERA: Thank you very much.

I just -- just as a follow-up, are you-- Because you mentioned something earlier in your remarks. Have you ever gotten a response from the Ombudsman's Office? Ever?

MS. GOLDSMITH: I am still waiting. Never. Never. At all. Period.

ASSEMBLYWOMAN MOSQUERA: So your grievance has been unanswered since--

MS. GOLDSMITH: Since 2009.

ASSEMBLYWOMAN MOSQUERA: Okay. How many total grievances have you submitted?

MS. GOLDSMITH: I would say-- Wow. It was constant, because I was waiting for an answer and I figure if I flooded it, eventually something would bleed through. So I can't even tell you how many. And like I said, I also had the women on my wing who had to go and get pelvic exams in search of a cellphone that none of them had or knew anything about.

Those women grieved with me, so all of us were constantly grieving that situation.

ASSEMBLYWOMAN MOSQUERA: And to your knowledge, they've never received--

MS. GOLDSMITH: None of us -- none of us to my knowledge ever received any kind of response, because that's what we were doing. "Did you hear anything yet, did anybody say anything to you?" Just to see if maybe someone else got to them before, maybe, you know, mine; and you know, we're going to get a response, because somebody at least received something. Nothing.

ASSEMBLYWOMAN MOSQUERA: And just for clarification -- all these, when you were there, they all had to be handwritten?

MS. GOLDSMITH: Yes.

ASSEMBLYWOMAN MOSQUERA: So there was no hotline that you can call--

MS. GOLDSMITH: No-- No, you can call the Ombudsman, you know, you can call the Ombudsman, but nobody answers. And then

for the grievance you have to handwrite that and put it in a box, where the sergeant comes and retrieves it.

ASSEMBLYWOMAN MOSQUERA: Thank you very much, that was very insightful and helpful.

MS. GOLDSMITH: Yes.

ASSEMBLYWOMAN MOSQUERA: Chairman.

ASSEMBLYMAN MUKHERJI: Okay. Next-- Thank you again, Ms. Goldsmith.

Next we're going to hear from Dr. Marilyn Van Dieten.

**M A R I L Y N   V A N   D I E T E N ,   P H . D .:** Thank you so much; special thanks to the Chairman, the Chairwoman, and the members of the Assembly Judiciary Committee and the Women and Children Committee for inviting me to speak. I also want to thank Nafeesah and Assemblywoman Lopez for your advocacy and the powerful presentations I just heard. I'm actually going to cut short some of my presentation because of some of the comments that were made.

Just by way of background, I'm a psychologist who has worked in the field of Corrections for over 35 years, in a variety of different but complementary roles. I've conducted research and authored and co-authored numerous publications and interventions; I've provided treatment to justice-involved women; and I continue to serve as a consultant to the National Institute of Corrections in the U.S. and the Correction Service of Canada.

I always felt my career launched at the perfect time. And I just want to share this, because it was the late '80s when I was working on my Ph.D. and one of my thesis supervisors was one of the four Canadian

researchers that re-introduced rehabilitation as a promising correctional model. And this model, known as *risk-need-responsivity*, is probably the most well-validated and widely used model around the world.

The reason I mention this is that at the same time as this model emerged, a debate was raging across the U.S. -- this *nothing works* debate. And proponents of this *nothing works* debate espouses the belief that the only thing we can do to protect the public is build prisons and keep people who commit crimes out of the community as long as possible.

So we're seeing the results of that. So it's interesting; as construction hit an all-time high in the U.S., in North America, my mentors were compiling evidence to suggest that incarceration in and of itself was not the best choice or the only choice. In fact, they repeatedly demonstrated that when we use an approach that's respectful, that is dignified and holds people accountable at the same time; when we focus on needs and challenges that bring people into the system, we can in fact ensure public safety and provide incarcerated individuals with the resources they need to live successfully in the community.

So the first 10 years of my career, I worked to apply this in our framework and institutional settings. But by the 2000's the question that was posed to me everywhere I went was -- and it actually changed the trajectory of my career -- was, "What about women?" And you see, until the late '90s, policies and practices used in Corrections were based almost entirely on the research conducted with males, and it became clear that these really traditional correctional practices -- they just weren't working well for women.

Women seem to be struggling on the inside -- we just heard about that. They-- We're hearing all day long about misconducts, and mental health crises, and suicide attempts. And though they're not committing necessarily new crimes when they're released, they're being returned to prison at an alarming rate; so once they get in, they can't leave.

So it was because of these problems that I changed-- I spent the last 20 years focusing on justice-involved women, and I've helped expand that RNR model to build gender-informed policies and practices.

And just before I get into my presentation, I want to tell you that I'm taking a new position soon as the Director of The Resource Center on Justice-Involved Women, and I hope you access that website because it is filled with resources. Anyway; that was my shameless plug.

Now, today, I want to share what we learned about what works with women, and I'm going to distill 25 years plus of research and talk about some of the successes we've had. I want to switch the gears here and talk about some of the agencies that have had success in working in returning families -- women to families and communities. So first I'm going to do a quick snapshot; I'll cut that kind of short because I think that's already been touched upon. And then I'm going to talk about, again, the successes that I've seen as I've been across the country.

The past quarter century, profound change-- And obviously you've heard this statistic before -- women are now the largest growing population. And I think something like the population count, since 1990 -- women has increased by eight times -- it's eight times higher since the 1980s. And we know it's from expanded law enforcement; it's different drug laws; and it's also due to barriers that women are facing. They have so

many unique challenges that they're facing upon re-entry, and we think that's why they're coming back in.

If you consider any of the things you hear today -- from me, anyway -- I hope you'll note two facts: First, Black, Indigenous and women of color are significantly overrepresented across North America; it doesn't matter what system we're in. And secondly, women are the fastest-growing population, yet they pose the lowest risk to public safety. Which begs the question, why are we so dependent on incarceration?

Women have lower -- you know, less extensive criminal histories; and I think you've heard time and time again they're less likely to be violent; they're less likely to come in for violent crimes and commit violent crimes while inside. So we know that the base rates of re-offending are significantly lower than that.

But when we explore what brings people into the system -- or women into the system, we see these unique pathways. And I think you've heard some of them already. Men and women -- yes, they do face similar risks and challenges, but the needs experienced by women aren't the same, necessarily, as men. I can't-- Nafeesah has just clarified so many of -- so much of what is different; and I'll just give you a few quick steps. And I'll move through this fast.

The most common experience reported by women is sexual assault -- women in prison -- is sexual assault. Not just happening to women, but happening in childhood. And the statistics are so high; we don't see this with almost anything else. The range is 77 to 98 percent of women reporting childhood victimization -- and that can be physical abuse,



emotional abuse, child or sexual abuse. That means that over three quarters of the incarcerated women we work with have experienced trauma.

So Nafeesah's point is, before they come to us, women have experienced trauma. We know the impacts of trauma. The research is in; and actually in the last decade the ACE study that has been conducted by the CDC -- and many big studies that are out there right now -- shows that women who have experience trauma, men who have experienced trauma -- these early experiences can contribute to longstanding problems.

And we see all kinds of -- they adopt all kinds of survival behaviors to respond to abuse. So we hear women consistently tell us, "I started using drugs to numb the pain and push away memories, traumatic memories." So it's not surprising-- Over 60 percent of justice-involved women report drug dependence or abuse. And it's also the biggest predictor of returns to prison -- when women are brought back for technical violations for using drugs. Seventy-five percent of justice-involved women suffer from mental health -- primarily depression, anxiety, and PTSD -- and the largest proportion of women suffer from co-occurring disorders, so they've got substance abuse dependence and other issues happening at the same time.

Childhood victimizations also directly correlated with difficulties in relationships. When a child is violated by a caretaker, they struggle with relationships often throughout the lifespan. Issues of conflict, trust, and exposure to abuse can create a normative experience that is replicated in adult relationships. So many justice-involved women have not only experienced childhood victimization, but I think what we see, I see are consistently high levels of chronic stress -- which, incidentally,

neuroscientists are now labeling this as *toxic stress* because it actually changes how people respond to stressors in their environment. Chronic stress associated with homelessness, poverty, unemployment, and racism are the biggest contributors to this toxic stress.

So trauma is a significant factor in the lives of justice-involved women; and yet I am constantly pushed back when people say to me, “Why are you talking about trauma so much? All it does is help women condone and excuse responsibility for criminal behavior.” And I wish we had time and I could give you a whole lesson in the neurosciences on exactly what happens when someone experiences trauma, at that neurophysiological level, to the brain. Because when I teach women what’s happening at that level, you know what -- they start to understand why they’re constantly in fear; and why they leave the lights on when they go to bed; and why they can’t control -- just feel more comfortable in their bodies. And when we teach women about the impacts of trauma, we can help them change it.

There are other things that women face, just as all women, aside from trauma. They have really unique health issues -- health-related issues. Reproductive health is probably the most obvious, but they also have higher rates of HIV, and eating disorders, and other chronic illnesses that are not being addressed inside. Nafeesah mentioned medical issues; one of the biggest complaints we hear routinely from women is that they’re not given medical and dental services.

The women we see in prison tend to have lower educational attainment, fewer vocational skills, they tend to be underemployed, many have never earned a living wage; and they’re also likely to be responsible financially for the children -- for the children and other family members.

The final need -- and this has already been mentioned much better than I could -- is just the fact that 60 percent of women in state prisons have a child under 18, and almost half of the mothers in custody never have visits with their children. We are impacting the lives of children. A huge report coming out of the University of Southern Maine right now -- those impacts largely negative. Children are suffering from those weakened relationships and bonds, and we are placing-- We're exacerbating problems for women routinely. More financial problems; their increased stress about parenting; we're destabilizing relationships for them; and I could go on and on.

Anyway, I think you get the picture. There are so many things happening with women that are unique, and I think earlier today you heard about some of the challenges that are being faced by the New Jersey Department of Corrections. Many of these issues, incidentally, are being discussed right now across correctional agencies -- other correctional agencies in other parts of the country. And unfortunately, that's happening far too frequently.

We are not providing safe, humane spaces for justice-involved women at many of our correctional facilities; in fact it's quite clear we're doing harm, and we just heard that. We're creating new traumatic experiences, and we're exacerbating physical and mental health problems. Crises often serve as a catalyst for change, so I've got, I think, another 10 minutes, and I want to share lessons learned from other agencies. I'm going to-- I've been in many states where they have made significant transformations: Michigan, Washington State, Massachusetts; and in Canada.

As a caveat, though, I want to say this -- each of these sites share a common framework: They believe in rehabilitation. They value change and they believe people can change; they've implemented that risk-need-responsivity framework I mentioned earlier; they believe gender matters, and they are working intentionally to integrate gender and trauma-informed research and principles across all of their policies and practices.

And I have to tell you, the immediate outcomes of doing very small things are incredible. We see, almost immediately, when we start making changes and behave in a trauma-informed -- treat people respectfully and with dignity -- when staff do this, we see reductions of inmate and staff assaults, inmate-on-inmate assaults, segregation placements, disciplinary reports, suicide attempts; and I can go on and on. We also see much longstanding outcomes.

But to achieve these intermediate outcomes and longer-term success, I'm going to just talk about five things that I've seen that seem -- that were consistent across these sites and seemed to promote positive change.

First, most of the agencies reporting success made the decision to create a high-level position, such as a Director of Women's Services. And that person has responsibility for the oversight of Women's Services, and they coordinate all aspects of facility-level efforts. This is across the board -- bringing in someone to manage this who is an expert and understands women's issues.

And then the second opportunity that I see across these sites that they've taken on is that they focused on facility -- as you are in your discussions today. There are so many aspects to facility, I can't possibly cover them all, but I want to mention one. Because one that seems to be

really powerful is location. What is most effective -- and this is borne out in research time and time again -- are small transition centers in communities close to where the women have access to family and to critical community services.

Now, as a historical reference, about 20 years ago the Correctional Service of Canada noted a significant increase in the number of women -- primarily Indigenous women -- committing suicide at their state -- at their prison for women. There were also repeated allegations from women of sexual, emotional, and physical abuse from the officers, and they went largely unnoticed and largely undealt with until a graphic recording was released to W5, a documentary news channel in Canada.

It was-- Some of you may have seen it; it was overwhelming. The public outcry compelled the Correctional Services of Canada to shut down the prison for women, and they created a series of smaller regional centers across the country. Incidentally, I was asking the other day -- because I'm on a task force to see how things are going -- and it was interesting to me, people were saying, "Oh, that's going to be so costly and expensive." It's not; it's actually less expensive, because they involve the communities in working with these centers. Anyway, this undoubtedly committed -- I think contributed to mandated successes I reported earlier, certainly in Canada.

Now, another aspect of the facility is obviously climate, and I believe your next speaker is going to talk about that, but just a couple of comments.

I have seen facility cultures change overnight -- or physical plant change, and people responding to that physical plant when you paint

it differently or fix up-- You know, make a place look nicer; when you put up posters with positive affirmations and resources. But that's nothing compared to ensuring that everyone coming into that facility-- And I'm not just talking about women feeling safe, I'm talking about their family members. There are so many times where family members feel unsafe and report being treated disrespectfully. But it's also staff and volunteers, and-- They need to feel respected.

So if you want to know how safe people feel, do you realize we have these well-designed surveys, we have well-designed interviews, we have focus group questions you can ask? These are things that have to be done -- we have to know how people currently feel. And I love people reaching out to Nafeesah to ask what we can do differently.

The third recommendation or opportunity is facility management operations -- and again, this is huge; I can't possibly cover all of this, but I want to hit on some major issues. And the first is disciplinary actions.

When I asked officers that have worked with both male and females who they prefer to work with, they invariably say men. And the reason they give is not that women are more dangerous; they find women difficult to manage. They complain that women are emotional; women constantly try to engage them in conversation. And often this is labeled as manipulative or uncompliant. You know, for officers managing units with high numbers of women and few staff, this can be exhausting -- I agree. I agree with them, I know it can be tough; but does it really require disciplinary action?

And I pause here for a moment because in almost every facility I've worked in across the country, women have more disciplinary write-ups than men. Why is it? They're not getting written up for dangerous events. And the problem with that is the number of disciplinary reports are tallied by almost every agency and put into classification tools, and this can dramatically impact placement; putting women in more restrictive housing. It impacts movement, they're ability to get around; it impacts programming.

So what can we do instead? I have seen so many innovative things that people are doing, but one I want to share with you-- Because I had a chance to work on this project, I got to work with one of the leading experts in trauma treatment, and she designed this two-phase communication model for staff. And what you do is, in the first-- Every time a challenging behavior occurs, the staff are cued to use this model, and it's called *Creating Regulation and Resilience*. I love this.

In phase one, staff use de-escalation techniques first to calm themselves, and then they calm the women; and once the women are regulated, they move to phase two and they actually work collaboratively with that woman to either help her resolve the problem or to make an appropriate referral. It can happen in one minute, it can happen in three minutes -- it can happen in whatever time that staff member has. And wherever I have seen this model introduced in facilities -- often in women's facilities -- agencies have incorporated it into their facilities for men.

But what can staff do when they're faced with more complex and difficult issues? Over the last 20 years I've made a habit to ask staff everywhere I go, "What challenging behaviors do you see and when are they most likely to occur?" And I think you've talked about almost every one of

these today. There's no question we're going to see the most challenging behaviors when we conduct detox searches; when we're doing strip and body cavity searches and pat-downs; when we're doing cell searches and extractions; when visits with family and key supports are denied, disrupted, or when they have bad news during a visit; when women are placed in segregation; and then we also see these behaviors occurring during nighttime routines.

So the next question I ask is, what can you do to reduce the risk of escalating challenging behaviors that occur at these times? And you know what? I always hear from a few staff that can share these really powerful communication strategies that they've used successfully to de-escalate a situation. And you know what? They're proud of this. They're proud that they've managed to deal with things effectively, and the fact that they don't have to do an incident report. But it's wonderful to see that people have these skills innately -- they're there. You know what? They're not reinforced by supervisors, by the chain of command; they're not being talked about on their performance evaluations.

And there's also the staff, unfortunately, that are very unskilled -- or unmotivated -- and as we've heard today, deliberately make the situation worse by behaving abusively or disrespectfully. And I have heard from staff that believe in the power of using intrusive strategies like solitary confinement. And you've heard this again and again today -- solitary confinement is harmful.

And even when you put in safeguards -- like we're going to reduce the times in solitary -- and we're going to make sure that people have time away from solitary, they should not be used with women. And they



tend to be used, at times, with the most vulnerable populations I'm seeing, in prisons, the women there more likely to be put into solitary confinement also have the most complex mental health needs. And we're also seeing persons who are LGBTQ spending time in-- So it's telling us that we're using this because we don't know how to manage complex behaviors.

Now, agencies that are reducing the use of segregation, reporting fewer disciplinary incidents -- incidentally, that's a metric they value. So they're actually saying, "I want to reduce the number of -- the amount of time in segregation; I want to reduce the number of disciplinary reports." And this becomes something that everyone works to obtain.

In Canada -- and I'm seeing this in Michigan -- staff are trained to conduct pat downs, cell searches, and extractions in a trauma-informed way. And this means that women are treated respectfully throughout the procedure; that staff remain calm and they just tell them what's going to happen, what they can expect, and then they thank women for their cooperation.

We have found that in the most successful settings, women are informed about all the rules. It's not just a matter of giving women a handbook. They need to know what incentives for positive behaviors are available; they need to know the consequences for noncompliance. That's operating in a trauma-informed way. They like structure when they know it's going to happen, and I have found-- There are some facilities where women will actually report that staff are applying these disciplinary practices in a consistent way.

So just a couple more things. Fourth, another opportunity is staff training. And obviously staffing and training -- there's so much

around staffing and training. One of the biggest things is when you have your facility in a remote area, you're actually reducing the pool of candidates to select from; and we need folks who are interested, who are aware of issues that women face, who are committed, who have the experience and the desire to work for women -- that goes without saying.

But I hear constantly issues around staffing, and numbers, and patterns, and it's interesting how many correctional agencies believe that fewer staff are needed in women's facilities because they are presumably less dangerous. What's often not recognized is the fact that women have greater, and often more complex, needs. Which actually begs the argument -- or presents an argument in favor of more staff in these facilities. Certainly more program staff, okay?

The ratio of male to female staff has long been debated, and right now many agencies -- I know in Michigan and many places I've worked they're trying to do a 75 percent female to 25 percent male ratio. But minimally, women -- female staff have to be available to conduct pat down searches; there have to be female staff in housing units; and there have to be female staff to monitor the high-risk areas.

So initial and booster trainings should be provided to all staff and volunteers, and obviously -- you mentioned this already -- critical to their role. But you know where we're seeing really big results? Is giving everyone training in trauma-informed care. And it doesn't mean they become specialists in trauma, but it does mean they understand--

ASSEMBLYWOMAN MUÑOZ: I think she froze.

ASSEMBLYMAN MUKHERJI: Dr. Van Diemen? (no response)

I'm going to give it a minute to see if we can get her back on by audio, and turn to the Q&A for this witness.

DR. VAN DIETEN: Okay, should I continue? Are we--

ASSEMBLYMAN MUKHERJI: Yes, if you could--

DR. VAN DIETEN: I'm going to wrap up.

ASSEMBLYMAN MUKHERJI: That would be great. And then we'll turn to the questions.

Did you see where you froze?

DR. VAN DIETEN: No, I did not. (laughter)

Oops.

ASSEMBLYMAN MUKHERJI: No worries.

DR. VAN DIETEN: So, just a couple-- I'm pushing trauma-informed care for staff training. And I want to say that we also have to be aware of what the consequences our staff are facing; and they are also experiencing symptoms of trauma -- the data is in for staff. So their wellness is really important.

And finally, I want to say one more thing. Twenty years ago, I never believed we'd have so many resources available to women. I want to share with you that we have classification tools, we have assessments that are gender-responsive, we have programs that have been well validated. So there are so many resources right now that can be provided to women.

And we also -- I think this is really important -- we have tools that can assess facilities across a range of -- to see how well your practices are aligning with the evidence. Twenty years ago, I never anticipated we'd have such a large body of resources for women: free websites for you to access; National Resource Center on Justice-Involved Women; National

Institute of Correction and Correctional Service of Canada. And if you don't feel like doing that, I can send you the links for all of them and provide you with a summary of resources.

Two final words. We've acknowledged the experience to transform how-- No; I think we need to transform how we work with justice-involved women, and that means redoing policies and practices to ensure that women are safe and that we're not doing harm.

And then I want to say that we have to ensure that we have the resources now to really help women transition successfully into the community -- we just have to use them.

So thank you.

ASSEMBLYMAN MUKHERJI: Thank you so much, Dr. Van Dieten; you're a wealth of information.

Assemblywoman Swain.

ASSEMBLYWOMAN SWAIN: Thank you, Chair.

Thanks for your presentation and all the work that you're doing with women to improve the quality of their lives while they're in prison, especially; and then afterwards when they can find somebody like you who can help them through the trauma.

What do you think about the use of body cameras? It's something that we discussed briefly this morning, and there's -- you know, obviously they have video cameras. But I'm wondering, there are circumstances where maybe it's too intrusive, you know, during a time of strip searching someone or something like that. And I'm just wondering from your experience if you can shed any light on the use of videos, body cameras, that sort of thing.

DR. VAN DIETEN: So I have seen cameras used-- Again, they're used-- Are you talking during extractions, primarily? Or are you talking-- Because I wasn't a part of this morning's--

ASSEMBLYWOMAN SWAIN: And you don't need to be. I just wanted to get your-- Because of the body of your work and experience, what you thought about that in general.

DR. VAN DIETEN: I have seen the use of cameras really actually prove -- just as a tool, they can be powerful to changing the climate or culture. However, having said that, it can't just be that we give the officers this technical tool and not give them the adaptive strategies that go along with that tool.

So what I have seen of people putting the cameras -- and then they use it strictly to, you know-- They're not using it as a teachable moment to help officers change their behavior, and officers perceive this as, "I'm now being monitored," and they feel it's very coercive -- it becomes a stressor for them.

So I think if we bring in cameras in a context of, we are doing this to provide safety for all and we're going to walk through these as a teachable moment after, they can be helpful. We have seen sometimes the cameras used in situations where they can't-- I think that's something that the warden or someone-- I have heard that they are used sometimes and women don't want them released, and it's compromising. And that's what the warden needs to really monitor. So they're asking for protocols for everything that could potentially happen here.

ASSEMBLYWOMAN SWAIN: Thank you.

ASSEMBLYMAN MUKHERJI: Assemblywoman McKnight.

ASSEMBLYWOMAN MCKNIGHT: Hi, Doctor.

You are advocating for changes, especially for microscopic changes, to occur. Have you worked with the Ombudsman Office on a national level, and do you feel that the Ombudsman Office, if done correctly, is a great advocate for inmates?

DR. VAN DIETEN: I have not been involved with the Ombudsman's Office in any of the states that I've worked with; however, I have worked with the Ombudsman in Canada. And they are an independent body -- truly independent body -- and what they have done is they have created a whole array of resources for us on dealing with challenging and complex behaviors; particularly for women who have severe mental health issues. I can't tell you how much they've offered or provided.

So they're given a mandate not only to promote respect and dignity, but also to produce resources. So they're not just telling us what's wrong, they are giving solutions to Corrections. And I think that's what makes them so powerful. In fact, I can provide you with the web link to them, as well, and you'll see that there are just some powerful tools on their website.

ASSEMBLYWOMAN MCKNIGHT: Yes, it would be great if you could provide some links to policies.

And I have another question. In reference to once officers are trained with the trauma care, how do we ensure that they are actually utilizing the training that they have received? And then if they're not utilizing that training, what are some steps that -- recommendations -- that we can do to make sure that they do it.

DR. VAN DIETEN: So the biggest-- We find that training in and of itself is virtually-- People are excited in that moment and then, of course, the effects dissipate over time. So what we have been doing is building in coaching almost immediately.

So for example, if there's a trauma-informed training, then people identified at different roles -- in sort of a diagonal slice of people in various roles with formal and informal authority -- are invited to be coaches. And they are doing things -- they're reinforcing these skills at debrief times and during staffing, and they're built right into performance evaluations.

So there's all kinds of incentives not only in the moment -- every time somebody uses one of these practices -- but there's also -- it's built into the successes they receive as an officer, or as a consultant, or as a counselor, over time, in their performance evaluations.

But coaching is essential. It won't happen with just training.

ASSEMBLYWOMAN MCKNIGHT: And I have one last question.

What is a broad recommendation to protect inmates -- especially women -- from abuse, retaliation, and assault from correctional personnel?

DR. VAN DIETEN: Wow, that involves almost every single thing that I talked about. I think it has to come from the top. It has to be-- I know people have all kinds of barriers to bringing in these changes, but it can't be tolerated. It just can't be. We have to remove staff who are behaving this way, and if that doesn't happen immediately, women aren't going to report. Why would it be safe for me to report an impropriety when the staff stay on? I mean, I think Nafeesah's comment was so

powerful; I mean she had someone who abused her perpetually over the years and nothing happened.

So it has to start with a commitment from the top that this isn't going to be tolerated; that officers will be removed, that they will be criminally charged. And I think everything that we do-- I think we have to have policies and practices in place, we have to have a mission statement that is going to say we are building the health of our prisons. I know that part of your mission is providing safety and doing no harm. Well, that mission is not being achieved, so maybe we have to rewrite the mission. Maybe we have to bring everybody together to ensure we are actually doing those things.

That's a-- (laughter) It's a big question. But it really does have to start with the top. I think your leadership has to not be willing to tolerate this.

ASSEMBLYWOMAN MCKNIGHT: Thank you.

I yield.

ASSEMBLYMAN MUKHERJI: Any other questions?

ASSEMBLYWOMAN MOSQUERA: Yes--

ASSEMBLYMAN MUKHERJI: Assemblywoman Dunn.

ASSEMBLYWOMAN MOSQUERA: Yes, that's what I was going to say -- Assemblywoman Dunn has a question.

Proceed.

ASSEMBLYWOMAN DUNN: Thank you.

A quick question: I found what you reported on to be fascinating. Thank you; thank you for all your work and advocacy.



You mentioned about the reports of -- the disparity in terms of disciplinary actions taken against women in prison vs. men, and I'm wondering if there -- just to drill down a little bit more -- if you've seen a disparity as well in terms of women being declared mentally ill or mentally unwell; and then being sent down another -- a different avenue as a result of that, and really obfuscating, in my view, potentially, the disciplinary actions that are required of those perpetrators.

DR. VAN DIETEN: Yes, we've seen that almost universally -- exactly what you're describing.

And I think it is-- I mean, the problem is we have staff who are not necessarily trained to manage those complex behaviors, so in fairness to them, there is that; and they can be difficult. And then we're putting -- we're isolating those women, we're putting them in a different place and we're increasing the problems by doing that. We're actually making things much, much worse.

But unless we have opportunities for staff to be trained and smaller areas offering those women supports and the mental health services they need, it's going to continue. But we're seeing it, yes, universally.

ASSEMBLYWOMAN DUNN: So-- Thank you, you answered the other half of my question, which would be, do you see any policy implications here -- even programmatic changes. Any in addition to training, in terms of, you know, at the point of a grievance submitted, or how the situation is handled if there's other-- Again, any other recommendations you might see?

DR. VAN DIETEN: I would say that, yes, the grievance -- they have to have faith in it. And when they don't feel it's safe, then it just doesn't -- it always falls apart in every system.

And for women who have complex mental health needs there's another issue: many don't know that they can file a grievance. So there have to be people in place, more supports -- mental health folks who are there that are actually doing-- Or advocacy people who are providing advocacy. I heard that the Ombudsman had people on site; well those people on site should be there for those women and ensuring that those women are not being harmed or placed in isolation unnecessarily.

ASSEMBLYWOMAN DUNN: Thank you.

ASSEMBLYMAN MUKHERJI: Okay; thank you again for your appearance, Dr. Van Dieten.

Next, we are going to hear from Ms. Lydia Thornton.

Ms. Thornton? (No response)

**LYDIA THORNTON:** Do you need me or want me to be on camera?

ASSEMBLYMAN MUKHERJI: It's up to you, but you are welcome to be.

MS. THORNTON: Actually, I would prefer to leave up the picture that is there, and there's a reason for it -- and I'll explain.

My name is Lydia Thornton. I did a little over five years at Edna Mahan. And I salute, first of all, my sister Nafeesah for her courage and bravery in speaking the way she did. And I want to follow that with a couple of different points to add onto what's been said.

First of all, the question was raised by someone about the Ombudsman, and what we know as people who are incarcerated about our rights and what we can do. It's really simple. Like Nafeesah, I thought when I went in-- Because I read my handbook and, wow, okay, if something bad happens there is somebody overseeing and looking out for our health, safety, wellbeing. And what I learned quickly is -- like Nafeesah I wasn't there for the online version, it was a paper trail -- and yes, the sergeant came, took the things, and I've watched them walk away and throw one or two of them away as they walked reading them. There was no guarantee it was getting anywhere.

As a follow-up to that, from out here as an advocate, what I have done is call the Ombudsman's Office as a friend or a family member. And someone asked, "What kind of response do you get?" Nafeesah testified correctly that if you're inside, you don't get any response 99 percent of the time. I can tell you when you're outside, you get a form letter in the mail that says that your concern has been forwarded to the Administrator of the facility.

Now, if you have a complaint about something that's happening in the facility, telling the Administrator of the facility that there's a problem seems counter-productive in many, many ways to me. And it was literally a form letter with the person's name handwritten in it.

So my belief is nothing happens -- ever -- out of the Ombudsman's Office.

Like Nafeesah, I was a witness to a lot of things. I worked in the infirmary for over a year, and one of my jobs was to clean all the areas, obviously; but the constant watch cells -- or the suicide watch cells -- were

right on the path. And at one point a young lady, who I will not name by her request, had had a psychological breakdown -- which was not uncommon inside, she was a known person to have mental health issues. And she had a break to the point where she didn't even know what her gender was at one point.

And I watched -- and this speaks to the culture that exists within Corrections, it's not one or two bad apples -- I watched officers on multiple shifts come to her window, where she's supposed to be checked on every 15 minutes to make sure she hasn't hurt herself, she's safe -- they'd play music on their phone and want her to dance naked. Because at the time, she was convinced that she had male genitalia and was trying to show it off. And they would call each other over to watch. And they would encourage her to dance, and to show them and to display herself.

It wasn't one person. That wasn't one person, with a sergeant or somebody saying, "Dude, you can't do that. Get away from there and let her be." That was sergeants and lieutenants participating. Enjoying it. Nobody from medical stopped them; nobody from mental health came and stopped them. The regulations in the Department of Corrections say that you're supposed to be in that constant watch cell for three days -- at max -- and then one of two things has to happen. First off, you're supposed to be seen by a mental health professional once a day. Secondly, by the third day they're supposed to have made a determination what's next. Can they be released back to population, or do they need a higher level of mental health care?

There are two constant watch cells in the infirmary at Edna Mahan. And the way around that regulation is to move the person between

the cells, because the three days starts over. I can personally tell you that young lady -- who by the way was 27 years old at the time -- was in constant watch for 23 days before they finally moved her to Trenton Psych. And even then, it was a battle because her family was insisting she should be moved. Corrections didn't want to take her.

I'm here to testify to you that Corrections determines all medical care. We as taxpayers, we as people of New Jersey, are paying millions of dollars to Rutgers Medical -- Rutgers Corrections Medical -- for care. I'm curious why ethically their medical team doesn't report the abuse. Doesn't report that they weren't allowed to take somebody out to a hospital who needed it -- who was begging in pain to go to a hospital. Why I, as the infirmary worker, was the last person to hold someone's hand, and she died that night. And medical wasn't allowed to take her out, because it wasn't convenient.

Mental health and physical health are not a convenience issue. I listened to Mr. DiBenedetti talk about how he doesn't have enough employees. All the issues that have happened at Edna Mahan -- not just talking about January and February, I'm talking about since the Department of Justice report came out and it was made public, and decades before that -- the culture that, as my sister Nafeesah said, allows for husbands and wives to work and report to each other -- even though not really on paper, but in reality, you know. Girlfriends, you know, relationships; fathers, sons, daughters -- all work at Corrections. So they learn quickly how.

And Mr. DiBenedetti hasn't been to the facility since -- I believe I heard January of last year? It's not very important, is it? We talk

about a culture; the culture is of, “Oh, well, they’re just criminals.” “Oh, well, they’ll be back anyway.” I was told that as I left: “You’ll be back.”

I also did nine and a half months in solitary confinement -- which, with all due respect, Commissioner Hicks, still exists. Yes, they put a pretty name on it. “Restorative Housing Unit.” Sounds good. Okay, they let you out for an hour or two a day -- the regulation says four, but, you know, they’re trying. COVID -- can’t do any different.

COVID didn’t stop the world inside. COVID brought death to inside in a very real way. We’re at over 70 deaths that are likely COVID-related in some way. If you go backwards to 2019, there were only 32 deaths in custody. Something happened. And yet the Department only reports 50-something, because they don’t even want to confirm them. It’s part of that medical neglect piece.

If Director Hicks -- Commissioner Hicks, I apologize -- is so naïve as to believe a lot of what he said today, I feel sorry for him in many ways. But I also believe that his pretty talk of changing the culture starts at the top means he has to, as one of you suggested, be a presence in the facilities if he means to change the culture.

And I will end with this. I will stand with my sister and say she and I should be with you on the 19th. Because they’re cleaning it up right now because they know you’re coming. Everything is going to look really good. They’re going to pick the right people to talk to you. Just like when PREA inspectors come -- they only pick certain people who are allowed to talk to them. That’s how we’ve gotten, with all these assaults, almost perfect PREA scores for the past decade. Because it’s controlled. Nobody

can just walk in there -- y'all can't. Even the Attorney General kind of went unannounced, but there was word; we know there was.

So I'm asking you, bring us with you. I'm asking Commissioner Hicks to come with us, and be honest and open your eyes to what's really happening.

I thank you-- Sorry for the siren, guys. Thank you for allowing me to speak today; thank you for having this hearing and insisting that you get some answers. I appreciate you, and I'm done.

ASSEMBLYWOMAN MOSQUERA: Chairman, may I ask a question or two?

Ms. Thornton, thank you so much for your testimony. I just have a couple of questions to ask you, is that okay?

MS. THORNTON: Sure.

ASSEMBLYWOMAN MOSQUERA: When were you there -- what years?

MS. THORNTON: I was there from 2010 to 2015.

ASSEMBLYWOMAN MOSQUERA: Okay. When you entered the facility and you were given the handbook -- the inmate's handbook -- out of curiosity, how long is it? Do you recall?

MS. THORNTON: At that time it was about 35 pages; and thank you for asking that, because the other thing about having a printed handbook -- or even now I think it might be online -- it assumes everybody's level of literacy. And that's generally not a good assumption.

ASSEMBLYWOMAN MOSQUERA: And did you find it useful -- a useful tool? A lot of good information? Or it was just something that the Department had to check a box?

MS. THORNTON: It was a check-a-box. I mean, it was thrown in with all your clothes and whatever they gave you. It wasn't like-- And you had to sign that you received it, so that to me is a check-a-box thing. Nobody ever asked me if I had any questions about it or if I understood it.

ASSEMBLYWOMAN MOSQUERA: And another question-- Let me see, I'm trying to frame my question correctly.

So the inmates-- Did you have a caseworker or anything like that? Does that even exist?

MS. THORNTON: There is a social services department; you have to go through an officer to get to go there, you have to fill out a form - - or maybe now it's online, that I'm not sure of. But it's mostly for things like if your family wants to contact you if somebody died, or for re-entry prep -- which I won't even get into the nonsense of that today; it's not applicable to this hearing.

ASSEMBLYWOMAN MOSQUERA: Okay. Thank you, that is all; thank you for your testimony and your bravery. And I do appreciate you, and God bless you.

MS. THORNTON: Thank you.

ASSEMBLYWOMAN MOSQUERA: Chairman, I see Assemblyman DePhillips. Go ahead, Mr. DePhillips.

ASSEMBLYMAN DePHILLIPS: Thank you, Assemblywoman.

Ms. Thornton-- Actually, I don't have any specific questions; just some comments. I wanted to thank you and Nafeesah for shining a light on the reality of this facility, more so than any research we could do on this place.



As we all know there's a mental health pandemic going on in New Jersey -- around the country -- outside of our prisons due to COVID; but it sounds to me like there's a mental health pandemic going on every day at Edna Mahan. So as legislators and public officials, hearing these unbelievably difficult stories about what actually happens in this place, we need to make sure that the women inmates in Edna Mahan are getting the mental health services that they deserve as human beings. And I'm sure, in a bipartisan way, we will make sure that that happens; and we'll try our darndest to make sure that happens as we move forward.

So thank you both for your courage and your bravery in coming forward. I appreciate it.

MS. THORNTON: Thank you, sir.

ASSEMBLYMAN DePHILLIPS: That was it, Mr. Chairman, thank you -- sorry, it wasn't really a question, it was more of a statement.

ASSEMBLYMAN MUKHERJI: Thank you.

ASSEMBLYWOMAN MOSQUERA: Is there any other-- Assemblywoman McKnight, please go ahead.

ASSEMBLYWOMAN MCKNIGHT: Ms. Thornton, I have a few questions for you.

The first question I have is, in your experience, do you know if any disciplinary actions were taken against any officers? Or were they swept under the rug?

MS. THORNTON: It was all swept under the rug. And tying that to the present, I know there's been eight officers and other upper level people indicted, but there were 30 suspended. The other 22 -- to our

knowledge, from everything we've heard from people inside -- are back at work. And that's a problem.

No, there was never-- From what I've described of that one incident, no. It was *fun*; there was no discipline for that.

ASSEMBLYWOMAN MCKNIGHT: I have a few more.

Do you believe that the grievance process is confidential?

MS. THORNTON: Absolutely not.

ASSEMBLYWOMAN MCKNIGHT: Do you think that the Office of the Ombudsman acts as an advocate in any way for the inmates?

MS. THORNTON: No.

ASSEMBLYWOMAN MCKNIGHT: And did you feel safe when you were incarcerated?

MS. THORNTON: I have kind of a two-part answer for that. Yes and no. I didn't believe, like I know some of my fellow brothers and sisters have at times, that I was going to die in there. But I always knew that anything can happen. I mean, I've watched officers go down hallways to rooms-- Somebody asked earlier, you know, can you ever be alone with an officer? Sure. If you have an individual cell, they can come in anytime they want, and one of their fellow officers will stand watch.

So safety is relative. I know for me, I no longer sit with people surrounding me; I always have a wall or somebody I trust, that can see the door. I have weird spacial things now -- I don't trust being out in the open and people.

ASSEMBLYWOMAN MCKNIGHT: And my last question. Do you believe the Department of Corrections complies with any of the laws that we have currently?

MS. THORNTON: No, they-- And I'll use the Isolated Confinement Restriction Act as an example. They have delayed for the past year even creating the regulations and holding the mandatory hearings for that Bill. They've made name changes; they've made things prettier; they've allowed people out for a little while longer. But you still have people being sentenced to what I would still call *isolated confinement* for more than what the law states.

Now, what they're doing is they're playing with words and semantics to say that, "Well, it's no longer isolated confinement because they're only in 20 hours a day instead of 23." Because we're now double-bunking people-- And let me tell you something, being 20 hours a day in a 9 by 20 cell with another person is not necessarily better than being in there by yourself, first of all.

And they're avoiding the Dignity Act. Women -- for the Dignity Act and the child piece -- don't have much of a choice, because there's no other choice but Edna Mahan that they can be confined in; they can't be moved to a facility closer to their children. Men can.

That should be being done, but we're using COVID as an excuse not to. And yet we can move people from facility to facility in the dead of night because of Legionnaires'. But we can't do it to enforce the bills and the laws that y'all created -- that Assemblywoman Lopez worked her tail off to get the Dignity Act through. And I know it, and I respect that. It started last August on paper.

The group that was supposed to have been created -- three from the Assembly, three from the Senate, three from the Governor's Office, at least one previously incarcerated person -- to have an advisory board?

Hasn't been done yet; supposed to meet quarterly, so I guess they're three quarters behind now.

So no, it's not being implemented. Very few of them are, is the long answer to your short question; I apologize.

ASSEMBLYWOMAN MCKNIGHT: No apologies.

Thank you so much, and thank you for being the voice, and thank you for standing up for the inmates -- your sisters who are still incarcerated.

So thank you.

MS. THORNTON: Can I say one more thing? It's not just my sisters. It's my sisters and my brothers. This happens to be really Edna Mahan-focused, but the picture that is in my Zoom, that I think those on the panel can see -- that man's name was Jesse Harper. He died in November. He was dragged out of his cell and beaten. There's been no investigation. And I keep his picture there in remembrance of him.

He'd been incarcerated for a very long time. He was a very small man. They knew he had mental health issues, and somebody got aggravated with him. And if I could personally start an investigation on him, I would. I can't even get confirmation of how he died. If any of you have that power, please -- please -- look into it.

Thank you.

ASSEMBLYWOMAN MCKNIGHT: Thank you.

I yield.

ASSEMBLYMAN MUKHERJI: Thank you, Assemblywoman.

Okay, at this time--

ASSEMBLYMAN AUTH: Chairman?

ASSEMBLYMAN MUKHERJI: Yes.

ASSEMBLYMAN AUTH: It's Assemblyman Auth. I had a couple of questions for the person giving the testimony. May I ask briefly?

ASSEMBLYMAN MUKHERJI: Please proceed, Assemblyman.

ASSEMBLYMAN AUTH: Thank you so much.

I'm just going to preface these questions by saying that I believe many people have been enlightened as to what's actually going on in some of these institutions by the fact that someone who was actually in law enforcement -- Bernie Kerik -- became an indicted person, and then was sent to prison, and had a total revelation when he got out, wrote books about it, and made rather stellar comments about what was going on inside.

With that being said, if I may ask-- First of all, Ms. Thornton: is that your name? I'm sorry.

MS. THORNTON: Yes.

ASSEMBLYMAN AUTH: Good afternoon.

I'm curious about retaliation when someone levels a complaint about an employee of the facility. You mentioned people had been suspended and they come back -- obviously, some sort of complaint is leveled against them; and it's found to be justified, and they suspend somebody for a period of time -- without pay, I'm sure.

When they return to work, what are the instances of retaliation; and would you think that that is part of the situation that we are discussing from January 11 where some people actually were physically accosted by security people in the facility? Is that something that happens with some regularity or frequency? Could you expand on that a little bit?

MS. THORNTON: I would say yes; and actually it doesn't even have to wait until the person returns from suspension if they have friends, relatives, working in the same facility. Nafeesah described some of it, it's not always physical retaliation. It's things like holding your mail or losing your commissary somehow; or searching your area just because. And searches for contraband are very violating when all you own is what's in your little area, and your paperwork and maybe your pictures of your kids, and letters from your kids, and cards.

When those are all thrown on the floor and, "Oops, oh the water fell on it too," and, "Oh, it got stomped and torn," and that's the only picture you have of your grandmother with the kids, or a family member who has passed -- those violations in many ways, sir, are worse than a physical one. Because you lose the few things that might be keeping you sane, or at least calm enough to go through day-to-day.

ASSEMBLYMAN AUTH: Okay, thank you.

The other question -- and you kind of segued right into it for me -- is with regard to mental health checks. From your experience, would you say that mental health checks are done with the expected regularity, and are medications administered with regularity when it's determined that a patient needs that? Or have you any experiences with that, that you may enlighten us about?

MS. THORNTON: Mental health is an interesting thing in a facility, because most people may be scared to ask for help because it's a sign of weakness. I mean, we have that problem out here in the real world; much less, in there, when an officer now has to know that you're struggling with something.

I can tell you when I was in solitary confinement, mental health care consisted of someone -- who I will assume was some kind of professional, because I never really did get his name -- knocking on your door -- steel door -- and saying, "How's your mental health today?" Now, the obvious answer is, "I'm okay."

If you're really struggling you might say something, but you're talking loudly through a steel door at someone who you've never met before, or you might have seen him come by a few other times. But the person in the cell on your left and on your right can hear what you're saying. And if you say, "Oh, I guess I'm all right," the response is, "Okay, good, I'll be back in a few days to slide some word searches and Sudoku puzzles under your door."

I'm sorry, sir, I do not constitute that as a mental health check. There's no privacy, there's no apparent concern-- It's, as someone else asked about something else -- the handbook -- it's check-a-box. "Oh, I went to cell A3. Oh, A4 is fine. Oh, this one's fine." How did mental health leave that young lady in a suicide watch -- constant watch -- cell for 27 days without moving her to a higher level of care?

How did mental health allow someone to disfigure themselves at a level to where she's scarred for life in many areas of her body, and yet the response was to put her in solitary confinement, not to send her for mental health care at a deeper level? It was to punish her for having the audacity to slice herself open and get blood everywhere.

No, sir, mental health care is a fallacy inside.

ASSEMBLYMAN AUTH: Okay, thank you very much for your testimony today.

Thank you, Chairman, I'll turn it back to you.

ASSEMBLYMAN MUKHERJI: Thank you, Assemblyman.

Next, we will hear from Dr. Todd Clear.

Dr. Clear, if you could proceed with your presentation.

**T O D D R. C L E A R, P H. D.:** Thank you; I'm so pleased to be able to be a part of this meeting. I've been listening from the beginning and have been very moved by the things I heard and very impressed with the importance of this topic, and so I'm glad to have a chance to talk.

I need to say that I-- What I know about the problems at Edna Mahan are not confidential -- they're the kinds of things that I read in the paper and heard from people indirectly; I haven't read the DOJ report, so I'm not in a position to really comment on the specific incidents that happened.

But I do have a knowledge of these issues from a standpoint of what best practices are, and what research has been done about institutional climate, institutional culture; and I've had personal experiences in and out of various New Jersey correctional facilities, including Edna Mahan.

And I want to start by saying that I think we can say that, on this topic of institutional culture and what to do about problems that are systemic -- such as the ones we've heard about Edna Mahan -- that there's both good news and bad news. The bad news is that, as we've heard from multiple people, the culture of an institution is very difficult to change; it tends to get established and last for long periods of time. We've heard that today both from the people who are in charge of the Department and Corrections and trying to do something about the culture, and people who have been subjected to it over the years.



But the good news is that the culture of an institution is very hard to hide, so we've heard plenty of testimony that the problems at Edna Mahan were widely known. And what that means is that in the context of the institution, the people who are working there generally understand what's going on; they may not know all the details, but in situations where there are systemic problems like this, they're not hidden, typically. And a reputation of an institution is widely known -- that's not just true for this one, that's true, generally speaking, for institutions around the country. Institutions that have significant problems, and multiple people closely associated within an arm's length from that institution are aware of those problems.

I want to say that there's no proven recipe for taking on the problems in institutional culture; trying to change it. If there were, there'd be-- We'd be changing them more significantly, because there are so many institutions with problems of culture. The usual prescriptions are pretty straightforward, and you've heard a lot about them today -- building a regulatory system; the importance of leadership; having written policies; doing a lot of training; trying to inculcate regular practices; and so on.

But the key distinction I think that we know about is whether the regulatory practices are pursued in a way that I would call *aggressive* -- that is, they are seen as a high priority on the part of the people who are responsible for them; or if they are done in a passive way -- that there are plenty of rules out there, there are plenty of procedures, we've got lots of forms, and people who need help can get help, because they could go out and ask for it.

That distinction is not a small one. It gives people who are responsible for regulatory -- for the culture problems reasons to think that they are taking them on; and it gives people who are suffering from difficulties in regard to them little capacity to do anything about them, when it's a passive kind of system. And people in the business of Public Administration, who study regulatory mechanisms in organizations, talk about *regulatory capture* -- that's the phrase -- and the first thing that an organization does when some kind of outside entity -- usually a governmental or quasi-governmental entity -- is trying to regulate it -- the first thing they do is they try to capture that regulator.

And I'm not saying that's happened here; I think it takes some time to understand that. But I do think it's important to note that on every point that we've talked about today, there's been an instance where somebody has linked it back to the managerial practices and administrative authority of the Department of Corrections, so that the regulatory activities that exist are managed by the institution that's trying to regulate it. And that is the classic example of regulatory capture -- where the regulatory agencies somehow operate at the behest of the institutions trying to regulate. So the first goal of organizational leadership, when it's trying to be regulated, is to capture that regulator.

So I want to talk a little bit about-- And again, I'm not saying that's what is true here, but I am saying that that's the challenge of all these situations.

So I want to talk a little bit about what we mean when we say *organizational culture* in the context of this kind of problem. And I think the first point is -- the question is, what kinds of conflicts are reduced between

which operations, which units of the organization? Here we've heard a great deal about the conflicts between the people who are incarcerated and the people who are in charge of their security; and we've heard repeatedly -- both from people in the Department of Corrections, but also people who were formally incarcerated at Edna Mahan -- about sort of the ubiquity of that problem.

Now, I want to say that in prisons around the United States, it's generally the case that that dynamic exists; prisons are not -- in the United States -- are not known for their good relationships between correctional staff and people who are incarcerated there. That's not true fully around the world, by the way. There are prisons, well-known examples of prisons where much different kinds of relationships between correctional staff and people who are incarcerated there exist; and there's been a movement in the U.S. now to try and promote that kind of culture within the prison systems -- which is very difficult to do because we have a lot of interference with that move.

But the first-- The idea that the core conflict here is between the people who are confined and the people who are doing the confining is a key idea.

A second thing about culture is not just how those conflicts are handled but, more importantly, how they are expected to be handled by those who are in that conflict situation. So if a person expects-- So for example, the correction officer expects if he takes -- he or she takes a complaint seriously, his or her peers-- Let's say she will be in conflict with her peers, her peer correctional officers, then that puts a pressure on her not to take those conflicts seriously. If he or she-- If there's an expectation that

if I bring a conflict upward I will be treated with respect in the way I bring it up, or the conflict will be treated with -- as though it's a legitimate complaint until it's investigated, then I will have another expectation.

And we've heard a lot here -- a lot about what the expectations were from almost every person who has testified about how -- what the different expectations are. And it's very clear that there's not uniformity about expectations. Some people see one set of expectations for COs and for staff, and for those who are incarcerated when a problem arises; others see a different set of expectations. And when that's true, it's usually the case that both expectations -- both sets of expectations have had some evidence to support them, in that there's a kind of a blindness to the evidence for the other point of view.

And I want to say that all of these cultures have what we would refer to in the organizational behavior -- and I'm not saying anything people in this room don't know -- they have the *formal organization*, and then the *informal organization*. There's a formal set of rules, there's a formal set of policies; people are well trained in them. And then there's what is actually done. And never is it the case that they're exactly the same -- there's no organization like that.

But really the question about culture is, how far apart is the everyday practice from the written documentation of what is supposed to occur? And it seems like, from what I hear in sitting today in this hearing, is that there is a big gap between the written world and the practices world at Edna Mahan; and there is a lack of uniformity of the multiple people who get in conflict with each other, of their expectation about how those conflicts will be handled.

All literature on organizational discipline -- on managing organizational problems -- calls into central analysis the importance of the first line supervisor; and in prisons this is particularly true. The person who supervises the CO's directly is a person who is almost exactly the most key person in the whole picture. We often talk about leadership, the climate leadership produces -- that's true, I don't want to deny any of that. But it is what that frontline supervisor thinks is being expected of him or her by those being supervised, and by those who are -- he or she reports to.

It is that set of expectations that really defines what operationally is true on the ground. And I want to say that I didn't hear among anyone here much of a sense that the frontline supervisors at Edna Mahan had a strong commitment to a culture of safety. I didn't hear a lot that it wasn't; although we did hear from people who were confined there that they didn't see this. Line supervisors either identify, within prisons -- This is not the line CO, but this is the person who supervises the line CO -- they either identify with the experience of the person being incarcerated, the experience of the line CO, of the person they're supervising, or the organizational administration.

And each of those possibilities carries with it a different set of consequences for culture. And if the line supervisor has a strong grounding in the experience of incarceration for the people who are being incarcerated, then institutions tend to be safer places for them. They tend to be places in which there is more regard for the experience of people being incarcerated; and they tend to be places where people who are doing line supervision COs, are held accountable for the quality of that experience for the people being incarcerated.

Now, what we don't know is much about those line supervisors at Edna Mahan, and who they identify with. I would be very surprised to learn, if we looked at them closely, that they have a strong identification towards the people who are being incarcerated. My guess would be that they are -- given all the things that have happened there -- that they have a culture of protection of the line COs they are supervising, and that it's a set of expectations back and forth between them. I don't have any empirical evidence to say that's true, but that would be my hypothesis, given what we've learned has happened there.

And now I'll close by saying something about broad institutional climate and institutional culture. What we do know is that vibrant-- An institution that has a large number of vibrant programs is a safer institution. By *vibrant*, I mean that both the staff and the people who are incarcerated in that institution believe in the value of those programs. It is often the case in prisons that we have a long list of programs on the written document, but the belief in those programs among people who are incarcerated is weak; and the support for those programs among people who are doing the work of custody is low.

So it is frequently the case that when people from the outside go into the prison to deliver a program that they feel some either indifference or even outright hostility from COs; and they feel -- they experience dubious -- a lack of deep commitment on the part of the people who are incarcerated, because the program is not vibrant in that institution. But institutions that have vibrant programs tend to be safer for everybody -- staff and those who are incarcerated. That's one of the reasons why prisons with college programs do so well -- because college programs almost always

are quite vibrant. They're extremely well -- strongly desired by those who are incarcerated, and they tend to receive at least some respect, even if it's begrudging respect, on the part of the COs; certainly, the administrators who open the doors to those programs. That's been our experience, actually, in New Jersey.

I want to join Dr. Van Dieten in emphasizing the importance of community engagement. Every correctional program that's been studied is more effective when it's offered in the community than when it's offered in the prison. Many programs, that are found to be effective when offered in the community, have limited effectiveness or no effectiveness when offered in the prison. To the extent that New Jersey can move from a system of Corrections that emphasizes, at its core, confinement, toward a model in which the system of Corrections emphasizes connectivity to the community -- community-based correctional facilities, community-based correctional programs, community engagement inside the prison to the extent that that's possible -- it improves the power of programming and the value of programming for not just recidivism rates and not just for the experience of the confined, but for the entire correctional experience, and the safety of correctional staff, as well as people who are under the authority of Corrections.

And I will stop there. Thank you.

ASSEMBLYMAN MUKHERJI: Assemblywoman Swain.

ASSEMBLYWOMAN SWAIN: Thank you.

I just had to take a deep breath, because that was a lot of interesting information.

Do you know what the process is for hiring Corrections Officers? Do they go through psychological testing? I thought about this question when you were talking about the difference between who people identify with -- if they identify with the inmates vs. the people either they're supervising or the other officers.

So-- Because I know that police officers go through psychological testing. So do the Corrections Officers do that as well?

DR. CLEAR: I don't know the specifics about New Jersey, but I do know, generally speaking, that the kinds of recruiting and evaluating processes that are used for correctional staff -- COs in particular -- also apply or are the same ones that are used -- the same kinds of things that are used for law enforcement officers.

The Corrections Officer profession, in most places, is seen as a type of law enforcement operation. And in many places, Correctional Officers' organizations -- if they have a union organization or that kind of thing -- identify with law enforcement roots, and coalesce with law enforcement. They see their interests co-aligned.

But I think it's important to get a psychological screening, obviously, to try to make sure you're not hiring people who are particularly damaged goods when they go to a job that's a difficult enough job to begin with. And suicide rates among COs are quite high, for example.

But I think way more important is the on-the-job training portion; not the off-the-job training. The things they do before they go on are obviously important; they set a stage, they give information. But there's been a lot of studies of the bringing of a person onto the job. So for example, the classic thing is that the first day on the job, and the CO that



you're assigned to as your teammate -- who is your advanced CO, is going to be training you on the job -- says to you, "Forget everything you learned in the training operation. Things don't work that way." That's the first the thing they say to you.

Well, if that's the case, you don't really have a training operation, right? What you have is a holding pattern until you get in the prison and start to get assimilated. We've done this work with probation parole officers, and we've learned that the attitude of the person-- The CO comes on and admires somebody, "I want to be like that person." And it is what that person is like that determines how the new CO will develop in his or her career over time.

And really those first few months -- nine months -- on the job are crucial, because how do I-- What meaning do I make of the experiences I have, or how do they teach me? If I have conflict with a person who is incarcerated -- which I will have in those early days -- what do I make of it? How do I understand it? What is it defined as?

And if it's defined as, that person is a problem and you have to kick them a bit to get that guy to settle down; or that woman, you really have to yell at her or you might need to get a little physical with her -- if that's the definition I hear, that's what I learn. So that's why I say-- And who the supervisor -- whether the supervisor is holding me accountable for a positive incarcerated person identification; if the supervisor is saying, "You have to make it so the people who are incarcerated here don't suffer--" To just make it brutally direct, if that's the message I'm getting, I'll learn one set of things. If the message I'm getting is, "You've got to make sure you don't have your other COs worried about whether you're going to have

their back or not,” which is another message that I could get, then I will learn another thing.

And we didn’t hear much about that, but I can tell you, there’s a story out there about Edna Mahan that all of those things are happening. Now, whether the story is true or not, I don’t know from personal experience; but I do know that it’s out there.

ASSEMBLYWOMAN SWAIN: If I could just follow up-- I mean, there’s so many things that we could talk about just right on that subject. Because, I mean, we’ve heard testimony today -- horrible testimony -- which leads me to question, are they learning from their supervisors that it’s okay to sexually assault the inmates? Because that’s what it seems like. But I don’t want to go there right now, I want to ask you another question.

The problems--

DR. CLEAR: I know you have another question; I’ll try to be very quick.

I’m not saying that that’s what they’re learning, but I’m saying that they’re getting their expectations about what will happen from those lessons. The expectations may or may not be accurate; sometimes they’re informed by experience. But it is the expectations that determine how I will behave, and it’s those expectations that are trained on the job.

ASSEMBLYWOMAN SWAIN: And I think that there’s an expectation that the behavior will be ignored -- that’s it’s okay, and nobody is going to get in trouble.

DR. CLEAR: I think that’s worth knowing.

ASSEMBLYWOMAN SWAIN: Yes.

My other question is the behavior-- The stories that we've heard about this facility. Do you see this kind of stuff happening in other facilities in New Jersey? The abuse of inmates, putting them in the solitary confinement without water -- I mean all this kind of stuff that we've heard today?

DR. CLEAR: I have not heard as much about other facilities as I heard about this today. But if you had a hearing about each of the facilities, you might hear more. I don't know.

ASSEMBLYWOMAN SWAIN: Could I go out on a limb and ask you if you thought that perhaps all the women here should maybe be transferred somewhere else?

DR. CLEAR: I think that's an option that really should be considered.

It is very difficult to change institutional culture. It is far easier to build a new institution and have it start off with a culture that you maintain. I am not a big fan of building prisons; I think we've learned a bad lesson about that commitment over the last 25 or 30 years. New Jersey is actually in the position to close prisons.

I really think the question is, is secure confinement necessary for all these individuals who are there; or is some less secure option that enables an easier level of security possible for a large portion of the people who are there?

I don't want to answer that question, because I think it's an empirical question worth studying; but I think it absolutely should be an option on the table.

ASSEMBLYWOMAN SWAIN: Thank you.

ASSEMBLYMAN MUKHERJI: Assemblywoman McKnight.

ASSEMBLYWOMAN MCKNIGHT: Hi, Doctor.

I just have a few questions, but I want to piggyback on what Assemblywoman Swain-- I have another question.

Do you believe or feel if the correctional leadership presence was at the facility -- do you think that would affect cultural change?

DR. CLEAR: I'm going to say again, I don't think there's a playbook out there that we have, that we can really rely on on how to do cultural change.

So the question I would say is, how does this action or that action intervene at the line supervisor level in a way to change what's happening there? Because I think it's that dynamic that produces really the incarceration experience -- for both the confined and the people who are doing correctional security.

ASSEMBLYWOMAN MCKNIGHT: Thank you.

Do you believe that adhering to broad policies in this -- and the Dignity Act -- starts at the front line supervisor?

DR. CLEAR: I think that their role is probably more -- certainly as important as leadership of DOC, but it cannot be overestimated.

I will say one thing about this -- it's a very difficult job. There are few jobs in the justice system that are more difficult than being a line officer in a correctional facility. And if you don't begin by acknowledging that, and that many of the problems arise from how difficult the job is -- how important it is to do that job well -- then I think you don't get very far. But line supervisors are a place that I would make it a key intervention.

ASSEMBLYWOMAN MCKNIGHT: Do you believe that the Department of Correction will benefit from an organizational structural shift?

DR. CLEAR: I have heard things about the way all of the complaints coming from the bottom are handled, enough to think that what's happening in the Department of Corrections is not facilitating the kind of problem solving that is needed.

It's easy for a person in my chair to say that, I must say, because correctional management is not easy. A lot of conflicting demands. So someone like me can come in and say something like that pretty easily -- especially a person with tenure at a university. (laughter) I want to recognize that.

That said, you heard two different worlds being described; and it's almost like they described two different worlds, and they're living in the same one. So that's the problem here.

ASSEMBLYWOMAN MCKNIGHT: And I have one last question.

Do you believe in having former incarcerated persons as mentors to current persons incarcerated?

DR. CLEAR: One hundred percent. I think we should be employing them as parole officers and probation officers; I think we should be employing them as COs. I think keeping the criminal-- We used to actually give advantages to them because they had experiences that were important in those roles. But we've defined them as dangerous, and the other roles as the only thing between us and mayhem, so we've created the

world where there's this big separation between them. And I think a different way of looking at it is high time.

ASSEMBLYWOMAN MCKNIGHT: Thank you.

And you say you can just negate the re-entry aspect, right?

(laughter)

Second chance.

But thank you; I appreciate it.

DR. CLEAR: You're welcome.

ASSEMBLYMAN MUKHERJI: Assemblywoman Dunn.

ASSEMBLYWOMAN DUNN: Hi there; thank you.

You know, what struck me in reading the report-- And Dr. Clear, I know it sounds like you've been with us all day; you've been listening along. But in the DOJ report there was mention of a kitchen staff civilian who plead guilty to sexual assault. We've heard of a female correctional officer also being charged. I know there's much discussion about bringing more parity in terms of women on staff and some of the gender-restricted posts, as it was referred to. But we saw there that that wouldn't have solved that issue, right? One of the witnesses described it as a cancer, right? So we see that it's occurring at all different levels and all different positions. So I'm asking you the tough question: How do you eradicate that cancer, right? Have you studied situations that are similar to this, that it's so endemic?

Dr. CLEAR: There are not enough-- There are plenty of examples of this, but there are not a lot of good examples of successful change. (laughter) So there are lots of stories about problems similar to the ones that we're talking about here.

In cases where people have made significant changes -- for example, the Texas prison system used to be run by trustees; the Alabama prison system used to be run by trustees. There are other historical examples. The solution involved moving people and getting rid of people. So there was also-- Bringing new people in, particularly at the middle leadership issue, institutional leadership issue, and also at the line supervisor issue. If people learn that there are consequences and that cabals are broken up -- you know, sort of arranged relationships that are destructive but are maintaining the status quo get broken up. You can make changes, and you can make changes by--

It's difficult, and there will be tons of pushback, including unfair things like an administrator who takes this on should be anticipating scandals in the newspaper, and accusations that aren't true, and organized political response. So there are lots of reasons why these things stay the way they do, and that's because changing them is difficult and perilous.

Let me add one thing. I do think support from a body such as this is absolutely essential to being able to pull off a change in a situation like this.

ASSEMBLYMAN MUKHERJI: Dr. Clear; some really interesting observations, and we're deeply appreciative of your appearance today.

Okay, our final speaker -- if there are no other questions -- will be Tess Borden, who is a Staff Attorney with the American Civil Liberties Union; the former Aryeh Neier Fellow at the National ACLU and Human Rights Watch.

Ms. Borden, thank you for being with us.

**TESS BORDEN, ESQ.:** Thank you very much; good afternoon Chairman Mukherji, Chairwoman Mosquera, Vice Chairs, and Committee members.

My name is Tess Borden, and I'm a Staff Attorney at the American Civil Liberties Union of New Jersey. In the course of my work at the ACLU for the past almost four years, and in my previous employment, I've spoken with hundreds of former and current prisoners in New Jersey and across the country. I have myself visited -- or had clients -- in most of the DOC facilities in our State, including at Edna Mahan, and I bring those experience to my testimony today.

Thank you for holding this hearing and for allowing me the opportunity to appear before you. I hope this is just the beginning of your work to bring accountability and change in our prison system, and I look forward to your continued engagement long after today's hearing closes.

I want to thank my friends Nafeesah and Lydia for sharing their expertise with us. Their stories -- much like the January 11 assaults or any of the incidents named in the Department of Justice report -- are unfortunately not isolated. The ACLU of New Jersey hears from prisoners around the state in droves. As I know you recognize, the issues you are grappling with today are systemic.

And Assemblywoman Swain, to your question to Dr. Clear, although women at Edna Mahan are particularly vulnerable, we do know that physical abuse and sexual violence are not limited to that facility. I have heard the same patterns of intimidation, retaliation, verbal harassment, and physical assaults reported from men's prisons as well. And



I also know that there are reasons these stories don't always reach you Committee members.

I'm grateful for your recognition, Assemblywoman McKnight and others, that prisoner's voices need to be essential to reforms. Against that backdrop, I'd like to focus my testimony on responding specifically to some of the discussions you've had today, in the hope that at the end of a long program I can be most helpful to you.

I'd like to focus first on the need to strengthen the grievance process and PREA reporting systems, improve SID, and ensure prisoners do not fear retaliation. Second, I'll speak to the Corrections oversight mechanism New Jersey has already established. And finally, I'll speak to other recommendations for creating transparency and accountability within the DOC -- some of which Dr. Clear has just set us up for today.

On the first point, I was glad to hear the Commissioner this morning say he recognizes the "need for culture change" at Edna Mahan, and to say that this was his number one priority. I was also glad to hear him say he wanted to hear from all stakeholders, including prisoners. I want to emphasize-- And again, thank you Assemblywoman McKnight and other members of these Committees for recognizing that prisoner's perspectives need to be included in the Commissioner's visit and the way the DOC engages in these reforms -- including in whatever is planned for the Moss Group and the Assistant Commissioner for Women's Services.

However, I was very concerned to hear the Commissioner say that in 2019 only 22 PREA complaints were received at Edna Mahan, and I'd like to focus in on what that number means. Now, let's note, 2019 is the same period in which DOJ found PREA violations and sexual violence

were rampant at that facility; and there were only 268 complaints, the Commissioner said, across all 11 facilities that year. Let's recall also PREA complaints may and should be filed not only when there is rape or sexual assault alleged. PREA violations also arise from sexual harassment; from inappropriate cross gender searches or viewing; and from certain discrimination against LGBTI prisoners.

For example, I've met many prisoners whose electronic medical records -- so that is the medical record maintained by the DOC -- has what's called a *PREA flag*. That means the DOC has explicitly acknowledged that these prisoners are vulnerable to sexual victimization in prison. How is it, given all these *PREA flags*, given what we know and what the DOJ found about sexual violence and other kinds of sexual harassment and discrimination in 2019, that that year there were only 22 PREA complaints recorded from Edna Mahan?

To me, the number 22 means two things -- and maybe both of them. First, it means that PREA complaints -- which may be informal and which the Commissioner acknowledged are mostly verbal -- are not being properly recorded by DOC staff; and/or that prisoners do not feel safe reporting PREA violations. Indeed, like the Chairman, I've heard too many reports that people say Officers often refuse to accept a verbal PREA complaint, or that prisoners were even given a disciplinary charge or placed in TCC -- now the ECU or the IHU -- when they report PREA violations. So I think it's necessary that we sort of ask the hard questions that lie underneath that number, 22.

Moving onto the grievance process, I want to clarify that the DOC inmate grievance process is broader than PREA complaints; and it's

different also from complaints to the Ombudsperson. And I heard some of the Committee members, I think, talking about all three of those complaint reporting systems as one. The DOC grievance process is laid out in New Jersey Administrative Code 10-A, and it includes both formal grievances and informal inmate inquiries. It's the way prisoners communicate with Administration, with medical, with social services, or otherwise.

They either write up a JPay -- as we heard the Chairman describe today, and that's sort of the electronic platform; it's the intranet, so to speak, within the DOC; or they write out hand paper forms. Those forms are picked up by officers, and that JPay platform is maintained by the DOC. So it means nothing to say, therefore, that grievances -- that are by definition on the DOC's system -- are confidential. I don't know what the Commissioner meant when he said they're confidential. They are communications *to* the DOC, responded to *by* the DOC. And to my knowledge, nothing in the grievance process keeps a specific officer from knowing that a grievance has been filed against them.

We've heard the same concerning patterns with respect to the grievance process more generally, as we do with the PREA reporting system -- and that is that people fear they cannot report officer abuse, whether physical or verbal.

I'd like to tell a quick story about one of the cases the ACLU had where a prisoner reported what he considered to be racist comments by two specific officers. Rather than those officers being investigated, the prisoner was charged with a disciplinary offense of perpetrating a fraud. That's a disciplinary charge that carries very intense sanctions, including time in isolation -- which was, at the time, administrative segregation. This

prisoner, after receiving these charges, was not allowed to see the evidence against him -- which was an SID report -- and was not allowed a lawyer in the disciplinary proceedings.

On appeal, he was represented by the ACLU, and the Appellate Division ultimately reversed his guilty adjudication. But the fact that he was charged with perpetrating a fraud when he tried to report officer abuse - - racist comments -- in a grievance is deeply problematic. And we've heard that this charge of perpetrating a fraud, as well as the lesser disciplinary charge of lying, are often used in retaliation for complaining about an officer.

I think there's a lot that can be done here, and I'd ask the Committee members to demand action on it. For example, one solution could be the Commissioner or the Ombudsperson could personally review fraud and lying adjudications, and ensure these and other disciplinary charges are not used when a prisoner exercises their 1st Amendment right to file grievances.

The last sort of point on this, that I'd like to pick up on from the morning's discussion, is the independence of SID, the Special Investigations Division, within the DOC. I was very glad to hear -- and it was news to me -- that the Commissioner is undertaking an audit of SID. I'd ask the Committee members to request a reporting of the audit process and the results.

In particular, I have the following list of concerns about SID. First, the Chairman and others asked about interviews being videotaped. Although it is true SID interviews of prisoners are videotaped, the videotape recording does not begin when the prisoner leaves his or her cell and comes

into the interview room -- which means we don't know what discussion has come first; we don't know what warnings were issued. We heard questions about the warnings and self-incrimination discussions that happened first. We don't hear any of that or see any of that on the video.

Second concern: The interview contents -- both the video itself and the SID report that follows, because after an interview SID officers write up a report of the interview itself -- those contents are typically not available to the prisoner because of confidentiality designations. We see a general rubber stamping of confidentiality on anything that SID touches, and that's really problematic because the reduced summaries provided to the prisoner at the end are far from sufficient.

It's not enough, also -- as the Commissioner suggested -- that attorneys may access that video and that SID report after the fact. Especially because, when they do access it, they're typically prevented from discussing the very contents with their clients. More significantly, SID reports are often the basis of disciplinary charges, and the DOC explicitly prohibits lawyers from representing prisoners in those disciplinary proceedings.

So let me repeat that -- prisoners are adjudicated guilty of charges, sometimes in retaliation for filing complaints against officers in their grievances, and in those hearings that are based on confidential SID evidence, the prisoners are not allowed to review the evidence against them, and they are not allowed to have the assistance of counsel -- even when such counsel is already retained.

Another point. I have questions about the independence of SID, which was asked about this morning as well. In practice it's true that

SID officers belong to, sort of, Central Office in Trenton, but-- Sorry, in theory they belong to Central Office in Trenton, but in practice SID officers are often assigned to certain facilities. The same officers, therefore, that investigate issues of "inmate discipline" at those facilities are the officers -- and the officers who provide disciplinary evidence against those prisoners -- are the same ones who are charged with investigating grievances and investigating PREA complaints. And so it is therefore far from a clear analogy to an internal affairs unit, where we can trust, sort of, the independence and non-biased relationship between investigating officer and prisoner.

The final point I'll say on this piece is that there is insufficient notification at the end of the SID investigation process, whether that's of a grievance, of a disciplinary offense, or of a PREA report. And I've heard numerous complaints from people who say they never hear back on a PREA report that SID supposedly investigated.

With a view to the time, I'll move to my quicker second point, which is that the Legislature has already equipped our State -- you all -- have already equipped New Jersey with the tools for systemic solutions. Under the visionary leadership of Assemblywoman Lopez, the Dignity Act creates the most robust Corrections oversight entity in the country. And let me repeat that. As someone who has done this work around the country previously and has spent years looking at it in New Jersey, the Dignity Act creates the most robust Corrections oversight entity in the country. And we should be really proud of that.

We have the opportunity to be a national leader here. Mr. DiBenedetti testified before you this morning that his Office has complied

with the majority of the Law's provisions. I'm afraid to say I have a very different opinion. First, there are provisions of the Law that the Office has explicitly not yet complied with, and these are all critically related to community and public engagement. For example, the Law explicitly requires the Ombudsperson to "establish procedures to gather stakeholder input into its activities and priorities," and that includes holding public meetings at least quarterly.

I have not seen any procedures for gathering this kind of public community input. In the eight months since the Law took effect, I have also not seen any quarterly public meetings. This is just one example, but I worry it sends a message to the public and to those incarcerated that the Office is in many ways still doing business as usual, business the old way; it's still the same non-responsive Office that Nafeesah described in her powerful testimony.

For some provisions, Mr. DiBenedetti suggested his Office was now in compliance. Take for example the recent facility inspection reports that the Chairman spoke to this morning. Like the Chairman, I was disturbed to see these reports were merely a checklist for a walkthrough, and no meaningful interviews with staff or prisoners appear to have occurred. The law explicitly provides that facility inspections may include examining incidents of physical and sexual assault, medical and mental health care, use of force, and the inmate grievance process, among many other areas. Why were none of these areas addressed in any of the inspection reports? Why was it just a checklist, that Mr. DiBenedetti acknowledged facility staff were given a copy of in advance?

The Dignity Act is, in many ways, like -- but stronger than -- a law enacted in Washington State. After just two years of work in Washington, that office has published annual and monthly reports, it's published a strategic plan, it has an MOU with the DOC. It has published dozens of investigation reports, and systematic reports, and prisoner surveys. Again, our Law in New Jersey is more robust than Washington's. But by example, I'd refer the Committee members to the Washington reports page, which you can find at [oco.wa.gov/reports-publications](http://oco.wa.gov/reports-publications).

I'd be happy to answer questions about the Dignity Act provisions, but I'll finish this point by saying, as the Chairman named this morning, that the Law sets out a direct channel between the Ombudsperson and the Legislature for systemic issues. And this is a really exciting possibility. If this had been in place and fully implemented over the past several years, the Ombuds Office could have been working with you and your colleagues in the Senate to come up with solutions.

I was very concerned to hear Mr. DiBenedetti say that he did not have any policy recommendations for Edna Mahan, because over the years he had received "very few complaints from that facility." Again, the Washington Ombudsperson created an Assistant Ombudsperson for Gender Equity. If the New Jersey Ombuds Office had set priorities for the Office based on stakeholder input, I expect it would focus on gender equity at Edna Mahan, specifically, here too. I encourage members of these Committees, and the Legislature and Executive Branch to ensure that you are investing in the Ombuds Office and helping it grow into the full potential of the Law you passed.



I'd say the Dignity Act is also an example of what I fear may be a trend in the area of prison conditions more broadly -- strong legislation without meaningful implementation. As I just described, you passed the most robust Corrections oversight bill in the country in 2019. That same session, you passed what was at the time the most expansive solitary confinement reform law in the country. Like the Dignity Act, the Isolated Confinement Restriction Act took effect on August 1 of last year; and like the Dignity Act, I'm sorry to report that it has not been fully implemented.

This failure of implementation falls squarely at the feet of the DOC. I'd be happy to speak more to that, as well, in the question section; and the TCC, and IHU, and new post-custody status that were discussed this morning in response to any questions, if you'd like.

I would like to close with my final point, and that is with a view to some additional recommendations for reform. And let me be quite clear here: The incidents of abuse at Edna Mahan that have shocked our collective conscience are not isolated; they are not the result of a few bad apples. We need to change the culture of Corrections in New Jersey to make it safe for prisoners to report abuse; and critically -- as Dr. Clear spoke to as well -- to make it safe for Officers to report the abuse they see in their colleagues, to stand up themselves for what is right.

I'm glad to hear about what the Commissioner described as a new DOC early warning system. I'd ask that Committee members request additional information about this system, because I don't believe it's yet been made available to the public. Specifically, how will prisoner grievances and prisoner's perspectives be incorporated into this early warning system?

How will it incorporate the critical points Dr. Clear shared about shifting culture by focusing on the role of supervisors to set positive examples?

Another concrete recommendation I urge you to consider is to require a mandatory reporting system for officer abuse, including abuse that goes beyond PREA and is not sexual in nature. In our schools -- which are also congregate settings in which some of our most vulnerable populations spend their days -- we require mandatory reporting of abuse. Why not require that as a first step to create a culture of accountability in our prisons?

Another recommendation is to make available to the public incidents of officer discipline and use of force. At a minimum, the Committee members could ask the DOC to commit to the same rules adopted by the Attorney General for disclosure of records regarding discipline for police officers.

Similarly, a model like the Attorney General's Use of Force Dashboard -- which was unveiled earlier this week -- could be adopted for the DOC, with appropriate adjustments to protect privacy and security. While certain concerns, obviously regarding public inspection and prison security, as well as prisoner's privacy interests, need to be addressed, the DOC should not be permitted to hide behind the shield of operations and security at the expense of transparency and accountability. I'd be happy to offer more suggestions about how to strike that balance, in response to questions.

And finally, the Legislature can take significant access (sic) to ensure prisoners are able to tell their stories. The Ombudsperson, under the Dignity Act, is supposed to assist prisoners in self-advocacy; but we know

prisoners are typically not empowered to advocate for themselves as effectively as lawyers are. The Legislature could ensure counsel have better access to prison records and are able to discuss those records with their incarcerated clients.

You could also ensure prisoners have access to counsel before they are placed in the RHU or sanctioned with other severe discipline; or indeed, counsel in every disciplinary proceeding, regardless of charge. And you could begin to tackle some of the legal barriers that keep prisoners from having their day in court.

Finally, you can keep inviting survivors like Nafeesah and Lydia to testify, as I thank you for doing today; they are the true experts.

Thank you again for allowing me to appear before you, and for your commitment to creating change at Edna Mahan and throughout New Jersey's prison system. I very much welcome the opportunity to answer any of your questions.

ASSEMBLYMAN MUKHERJI: Thank you, Ms. Borden.

I'd like to start-- We've all read and been distressed by the reports surrounding the events on January 11. Those were questions that we didn't ask the DOC about, given the pendency of the ongoing criminal investigation and out of deference to the Attorney General.

Assuming that you weren't there that day and don't have confidential information about the investigation, I'd like to ask you, to the extent that you've-- You know, you have clients that you talk with; inmates and their families at Edna Mahan. I'd like to ask you about the Special Operations Group, and your knowledge of how extractions work; and how

that could possibly happen on camera, in the middle of the night, in a planned way -- and then those events could take place--

MS. BORDEN: Thank you--

ASSEMBLYMAN MUKHERJI: -- a year -- less than a year, nine months, eight months after the Federal report was issued.

MS. BORDEN: Thank you, Chairman. And I'd like to take your second question first, which I think is a rhetorical one: How could that possibly happen?

I don't know, and it shouldn't be able to, is the answer. I think it is a disgrace; I think it is an indictment of all of us, truthfully, and so I'm very grateful to the Committees for taking swift action and organizing this hearing; and to the Commissioner, truly, for coming before you; to Mr. DiBenedetti; to the survivors; and to the other experts you've had on today.

Regarding the Special Operations Group more broadly-- And I should say I'm not a witness to the January 11 assaults; I do have clients and other people who my colleagues and I speak to at Edna Mahan, and so I do know -- I will sort of speak only to what I know has been publicly reported already.

I think most generally what we know about the S-O-G -- or the SOG -- is that it, like SID, is supposed to be a unit of the Central Office. My understanding -- at least typically -- is that SOG Officers are not at particular facilities. Again, I am no-- I don't run operations for the DOC, so I don't know how their particular sort of units or tactical teams are employed. But my understanding is, generally, they are not on-site, and so would have to be called in. I think, unfortunately, that's a question that the Commissioner is best placed to ask. But whether or not those officers

were on site or, you know, came from Trenton, is a question; and I assume the internal investigation and criminal investigation will be looking at that.

I guess, with deference to those ongoing investigations, I would say that I think the scale of what happened on January 11 is shocking to all of us, but the patterns are familiar; and they're familiar to me, and they're familiar to Nafeesah and Lydia, and familiar to those of us who speak often with people who are incarcerated.

My clients have been subject to cell extractions; my clients have seen officers come in suited up the way some of the reports of January 11 described -- with vests and sort of riot-like gear. This occurred at night; this occurred in a unit that is a new closed-custody units. So I think it behooves all of us to be asking hard questions, and I hope that we'll learn more as the investigations conclude.

ASSEMBLYMAN MUKHERJI: Ms. Borden, can I jump in with clarification of part of my question? Because you touched on it.

It was more about whether these-- How these extractions, if you are aware, are typically handled by SOG. Because my understanding is that the suspensions of the officers -- all the officers involved -- were Edna Mahan COs. I don't know if they had experience or had ever conducted one of these types of extractions before; that SOG -- I guess they weren't on-scene to do the extraction, which normally would be their responsibility.

And I'm wondering about that aspect of it, to the extent that you're aware.

MS. BORDEN: Yes; so I can only speak to what my clients had told me occurs in a cell extraction. And I don't mean to keep kicking the question back.

I would say that the fact that I don't know the answer -- as someone who speaks to dozens of prisoners and has represented them in court and otherwise -- is a problem. I think it speaks to the lack of transparency regarding the DOC's internal management procedures and policies, and I would love if we could get a copy of the internal management procedure or policy regarding cell extractions. I haven't reviewed that document myself; I don't know if the DOC would make it available subject to OPRA. So all I can sort of describe is the firsthand account of what I heard, which is often quite violent and traumatizing for my clients.

ASSEMBLYMAN MUKHERJI: I'm going to read you a paragraph from the Dignity Act, and a response. This is like a timeline -- it's an implementation table of certain provisions of the Dignity Act, and the status towards implementation as provided by the Ombudsperson, and separately by DOC, in response to another lawmaker's request for information. And it was forwarded to me.

So, "Notwithstanding any other provision of law to the contrary, review criminal investigations to ensure the investigations were accurate, unbiased, and thorough, without investigating alleged criminal behavior; and adopt and comply with rules, policies, and procedures necessary to implement the provisions -- the statute -- which is the Dignity Act."

So the review of the criminal investigators to ensure these aspects, I would think, would require the cooperation of the DOC, and for SID to turn over these documents to the Ombudsperson. The response from the Ombudsperson is that criminal investigations completed by SID or

law enforcement agencies are confidential and normally not provided to his Office.

Am I reading the statute wrong, that that calls for that to be done? And I don't know if it's that he's not asking for it, or if it's that he's asking for it and SID isn't complying with that request. But the law, as I read it, doesn't seem ambiguous.

MS. BORDEN: I agree with you, as a matter of statutory interpretation. I don't believe the law is ambiguous; the law clearly states that there is a review function. I agree with Mr. DiBenedetti, and I don't think that you, Chairman, are suggesting that he should substitute himself for the prosecutor.

ASSEMBLYMAN MUKHERJI: Not at all.

MR. BORDEN: There is a review requirement written into the statute. I think the sort of temporality of it is perhaps ambiguous and a question for discussion, but I certainly think there is a role for the Ombudsperson both to refer criminal complaints to the appropriate prosecuting authority, and also, as necessary, to review how those investigations occur; without, of course, interfering with the criminal investigation itself.

I would also say that I think the-- It has been eight months since the effective date of the Dignity Act, and I think there is lots more work to be done. One of the next steps the Ombuds Office could take is to enter into a memorandum of agreement with the DOC, much like -- or with any other State agency -- much like Washington has done, by example.

And those are some of the nuances that could be worked out in an MOU -- to make sure that everyone has a clear understanding of their

roles so that they are fully living up to the full potential of that role rather than, you know, stepping back because they believe it's someone else's territory.

ASSEMBLYMAN MUKHERJI: And to be clear, you're saying Washington did it much better than us, in terms of the Ombudsperson and the Office; and they did it with a less robust statute than ours. Is that fair to say?

MS. BORDEN: I'm saying-- That's right. The statutes are similar. Ours is much more robust though. It has additional powers, such as subpoena power; such as the advisory board -- which has not yet been fully constituted, as Lydia spoke to. But over the course of the past two years since the Ombuds, Joanna Carns, in Washington took Office, she has done remarkable things to ensure meaningful oversight of the Department of Corrections. And from what I read of the DOC -- the DOC in Washington responds to her reports and her recommendations for remedial measures. And from what I read in those DOC responses, I believe that she serves the DOC and its officers, just as she has the prisoners by--

It's in all of our interests that we stop the culture of abuse and that we address issues of violations. The Dignity Act empowers the Ombudsperson to do that.

ASSEMBLYMAN MUKHERJI: Chairwoman Mosquera, did I see-- Does any other member have questions?

Assemblyman DePhillips.

ASSEMBLYMAN DePHILLIPS: Thank you, Mr. Chairman. Ms. Borden, thank you for your testimony, it was very impressive.



Big picture, do you have any opinion or recommendations for us with respect to the facility itself -- Edna Mahan? I mean, today we've heard different types of options; perhaps the Feds should come in and take it over; Assemblywoman Swain had a very interesting and intriguing idea about maybe just shutting it down or transferring those inmates to another facility, because the culture, you know, just can't be changed.

And of course we heard from the Commissioner who said that he thought we could reform the culture at Edna Mahan. And I'm not sure everyone agrees with that, given the history there.

So do you have any thoughts on that, any opinions that you'd like to share with us?

MS. BORDEN: I appreciate that question, thank you.

I think my strongest opinion is that there needs to be inquiring eyes and hard questions -- which you Committee members are all asking, and so I'm grateful for that. I'm glad to hear you're taking a tour on April 19. I think it is important, as I've heard people say before me, that you enter into that tour with a skeptical eye, because of course that tour is being prepared for. I would encourage you to consider bringing Nafeesah and Lydia along as they suggest, and speaking directly with prisoners outside of the earshot of Correctional staff.

I think that is critical -- that you ensure that you hear directly from prisoners; and that, of course, although they will know that they are speaking with you, as known by DOC staff, that they're able to share the content of that conversation without being overheard. So as a matter of first opinion, I would just encourage you to stay on this.

Regarding what to do with the facility specifically after you visit, it sounds as though the Federal monitor is effectively a done deal now, that the State is waiting for final approval from Department of Justice heads. So you know, I would sort of reserve my opinion on the role of that Federal monitor until I see what the Consent Decree looks like. But as a general matter, we're glad to see that the DOJ remedial measures from last April's report will be implemented, we hope, through some form of Consent Decree and monitoring.

I think there are two questions with respect to what to do with those who remain. The first is, we know the population right now is about, I think, 400, we learned -- high 300's, 400. I join Dr. Clear's comment in asking whether all of those people really need to be in custody status. I think New Jersey has lead in this area, recognizing that sometimes a full custody or carceral setting is not necessary for all offenses. We need parole reform so that people leave prison sooner; the public health emergency crisis showed us that it's possible to reexamine the release dates. And so I would ask, as I think Dr. Clear asked of you all, to examine whether there are other options other than the carceral setting for all those women.

For the hundreds who will nevertheless remain, I -- like Dr. Clear -- also am nervous about saying "build more prisons," but I do think whether it's at Edna Mahan or another facility, the women need to be protected and they have not been at Edna Mahan. If they are moved-- I know there's been talk about county jails. As a general matter, county jails are not built for long-term sentences, and oftentimes -- although program opportunities have been decreased during the pandemic anyway, and the kind of education programming, vocational service, etc., that we would like

to see in our State prison systems are not occurring -- there isn't the infrastructure for them to occur at the county jail system. So I would want to make sure that if county jail facilities are considered, that that is a temporary backstop, and not where someone ends up serving a very long time. Because she, by definition, will not get the same kind of access to programming that she would -- or that she should get at a State prison.

And in terms of building another facility or converting a men's prison to a new women's prison, I think I have to say I don't yet have a position on that. That would obviously be staffed, still, with NJ DOC Officers. And while I want to reiterate, again and again, to me this is not a question of bad apples, I also want to be clear -- I don't think officers are all bad people. I think what we need to do is create a culture in which we can empower Officers to step up and stand up for what they see goes wrong. And that cultural change is going to be required no matter which NJ DOC facility they staff.

And so I think if we were simply to move it to, you know, another facility with the same officers, without the kind of system change -- systems put in place to change the culture, my fear is that we would see the same recurrence of the human behavior that has brought us to this point.

ASSEMBLYMAN DePHILLIPS: Thank you so much--

MS. BORDEN: I'm sorry--

ASSEMBLYMAN DePHILLIPS: That was very helpful.

MS. BORDEN: I'm sorry I don't have a clean answer.

ASSEMBLYMAN DePHILLIPS: That's fine, I appreciate the answer. Thank you.

ASSEMBLYMAN MUKHERJI: Other questions?

Assemblywoman McKnight.

ASSEMBLYWOMAN MCKNIGHT: Hi, Ms. Borden. I have a few questions for you.

First I want to say, excellent. Thank you so much for all this information you have shared with us.

My first question is, what in your opinion is the Office of the Ombudsman empowered to do with the Dignity Act?

MS. BORDEN: I heard the Chairman ask-- Thank you for this question, Assemblywoman McKnight; and let me say thank you for, time and again, throughout the course of today, asking and reiterating the question of how we lift up the voices of prisoners and directly impact people. I think the centrality of that cannot be overstated, so I thank you for that perspective.

I heard Mr. DiBenedetti describe his role, as I took notes that are six pages behind now in my notebook, but effectively -- and I won't quote him therefore -- effectively as to address complaints regarding living conditions. That may have been the Ombuds' role before the Dignity Act; I do not believe that is the central purpose of the Ombudsperson under the Dignity Act and the law of the land today.

I understand the Ombuds Office as being an independent oversight entity -- oversight of the DOC -- that is empowered to identify and address systemic issues. And the systemic issues piece, to me, is really important. There is a whole complaint, investigation, and reporting process established under the Dignity Act. It, again, is similar -- I keep pointing us to Washington -- it is similar to the Washington model. On the reports page, you can look at how the Ombudsperson in Washington has

investigated these individual complaints, and made public reports on them, and required remedial action plans from the DOC.

So there's this internal investigation complaint system that must be created. But those incidents are supposed to be the dots by which the Ombudsperson is empowered to draw a line and make the connections - - to connect the dots to systemic issues. The law that empowers the Ombudsperson -- after having connected those dots, identified the systemic issues -- to come to you, the Legislature, and to go to the Governor with policy reform suggestions; with suggestions for action that the Legislature and the Executive can take to make change.

That, to me, is what makes us cutting edge; that, to me, is what makes New Jersey a leader in Corrections oversight if we fully implement our law. It's the ability to have an independent watchdog who is not just investigating individual complaints of, you know, no hot water -- or as we heard Lydia speak about today, Legionnaire's Disease in Northern State Prison -- but is looking at systemic issues of why are PREA complaints not being responded to.

I'm hearing all these complaints, let's say, of women who -- I don't know if this is the case, but hypothetically -- women who are saying they're trying to make verbal PREA complaints and they're not being accepted. Why is it that Edna Mahan had only 22 PREA complaints filed, according to DOC records, in 2019?

Those connecting-the-dots goals are what I see as being the critical function of the Ombuds Office under the Dignity Act.

ASSEMBLYWOMAN MCKNIGHT: Okay. Thank you.

In your opinion, as an attorney who works with MA's regularly, can you explain how the SID process happens in practice, as well as in the grievance process?

MS. BORDEN: So again, I can do my best -- and again, in typical egotistical fashion, I will blame my ignorance on DOC non-transparency.

So I do wish that we had better access to DOC internal management procedures, and protocols, and policies regarding SID's role.

What I do understand is that SID is meant to be a unit of officers based out of Central Office in Trenton; but that is, in practice, assigned to specific facilities that they investigate complaints of various nature. Disciplinary -- any disciplinary charge is usually investigated -- you know, if it's a significant or severe disciplinary charge -- it is investigated by SID. We've heard PREA complaints are investigated by SID. This morning, the Commissioner also spoke about a sexual assault advisory council in Trenton; but historically my understanding is SID has usually investigated those, as well as individual grievances which may not be PREA related, such as, "I didn't get my medicine." Maybe SID wouldn't actually investigate that type of thing, but something more serious -- an officer is making racist anti-Latino comments, as was my client's case, SID investigated that.

So they are sort of the investigative arm of the DOC. In my experience, they interview prisoners; those interviews are videotaped. As I said, the videotapes begin when the prisoner is seated in front of the officers, and so it doesn't capture what comes before or what comes after. They often then write a report based on that interview; and that report, in

the case of the disciplinary process, goes to the disciplinary hearing officer, who considers it the evidence against the prisoner, and adjudicates the prisoner based on that and any other evidence.

I do want to flag -- again -- my real concerns that the DOC rubberstamps SID reports as confidential, and that is of enormous concern to me. In my experience, SID reports have been stamped confidential-- The Commissioner said attorneys can get a copy of that. They can get a copy of it usually only by signing what's called a *consent protective order* or a *consent protective agreement* -- basically a protective order, a contract; sometimes that's entered by the court such that I would be, you know, in contempt of court if I violated. And it's a standard term; usually the attorney is not permitted to discuss the contents of the reports with their own client or with anyone else. So it's what's called an *Attorney's Eyes Only* provision.

In that one case I mentioned, the DOC's lawyer did agree -- the Deputy Attorney General in that case -- did agree actually that the SID report should not have been marked confidential, and it was ultimately filed on the public docket. It said nothing confidential at all, but to my knowledge that was the first time an SID report had ever been filed on a public docket.

ASSEMBLYWOMAN MCKNIGHT: Okay.

MS. BORDEN: So I can--

ASSEMBLYWOMAN MCKNIGHT: Actually, one question--

MS. BORDEN: I would conclude by saying it is sort of a unit that is cloaked in secrecy; and especially because most prisoners are uncounseled and they are, by definition, uncounseled in the prison

disciplinary process because the DOC explicitly prohibits counsel from appearing in those proceedings. The fact that everything SID touches is sort of rubberstamped confidential, in my experience, means that the prisoners do not get to confront the evidence against them.

ASSEMBLYWOMAN MCKNIGHT: Gotcha. Two more.

As a policy expert in your field, you are keenly aware of the many laws this body continues to pass on prison reform. In spite of our efforts, issues and abuse continue to happen; like renaming solitary confinement to Restorative Housing. Do you believe that the DOC actively works to implement the laws we pass and do you have any suggestions on how we can hold them accountable?

MS. BORDEN: Thank you for that. I would like to see the DOC working harder to implement, I guess I will say. I don't sit at those tables, and so I can't say whether or not there are actions they're taking that we don't see. What the public does see -- for example, with the Isolated Confinement Restriction Act that you mentioned, Assemblywoman -- is that the DOC has not acted on the legislative directive to promulgate regulations. I think it was mentioned earlier in the course of the afternoon session, the DOC was required by the Legislature to adopt rules implementing the Isolated Confinement Restriction Act by May of 2020. They did not publish any proposed rules under the APA until July.

The ACLU submitted, I think, something like 30 pages, single-spaced, of public comment on the proposed rules. That comment period under the APA closed in September, and no final rules have been adopted.

What has resulted, therefore, is there has been a change in the names of closed custody units, as you and the Chairman and others have



acknowledged; you know, the RHU, the TCC -- Ad Seg becoming the RHU; the TCC becoming the IHU. But these are purgatory statuses, because they are not defined -- the contours are not clear under law, or under regulatory text. So prisoners who are in the RHU don't actually know what status they're in, because New Jersey Administrative Code 10-A5 doesn't mention the RHU.

I think these kinds of blatant failures to comply with legislative directions in the Isolated Confinement Restriction Act area are deeply concerning. I know, of course, it's a pandemic; I know that there has been a lot going on, and I am grateful for the Legislature's passage, of course, of the Public Health Emergencies Credit Bill; and I know that was a lot of work for the DOC during all of that. So I would say it's time for the DOC to implement the legislative enactments from this body, and we will continue to push them to do so.

The final thing I would say is that I do think you are empowered to demand -- to demand proof, to demand metrics that your legislative enactments are being complied with and are being fully implemented. I think some Bill text itself sort of requires that kind of data and public reporting of implementation measures, but even where Bill text doesn't include that, I would imagine it's within your powers to ask for answers from the Commissioner and from others in DOC leadership. Because, you know, of course you set the law of the land in matters that that law be fully implemented in a timely basis.

ASSEMBLYWOMAN MCKNIGHT: Thank you. I have one last question.

I am third prime on Assemblywoman Lopez's Bill requiring correctional police officers to wear body cameras. Do you believe having cameras in our prison system will be beneficial? And part two, what policies are needed regarding access to footage to make this Bill a more powerful accountability tool?

MS. BORDEN: Those are great questions, and I could talk for many hours -- and I know you've been sitting for many more, so I will not say everything I might.

I think as a general matter, body cameras offer a tool of enormous public transparency and accountability. They protect on-the-street civilians; in a correctional setting, prisoners, who are also civilians; just as much as they protect officers. And so I think that if accompanied by appropriate policies and protocols, and activation and deactivation guidance, they can be a tool for extraordinary change. And I think we've seen in the policing context that bodycam and other camera footage has, you know, required this country to confront what many of our Black and brown communities have known their whole lives -- which is that we have an enormous violence issue.

I think in the prison system there are-- On the street, it is important also that bodycams have appropriate legislative and Attorney General guidance; and I know under Public Law 2020, chapters 28 and 29, this body passed really expansive protections and requirements for a statewide bodycam system. And I know the Attorney General will be -- I assume will be updating directives accordingly.

I do want to name, that I think in the prison context, there are different privacy protections. And so while in general I think cameras can

be a tool of accountability, it's important for us all to recognize that just because there's footage doesn't mean it's publicly accessible.

So whereas, when I walk down the street, if I'm captured on a police bodycam, I sort of have -- for 4th Amendment purposes -- a lessened expectation of privacy because I'm on the street; anyone can take a picture of me. If I'm a prisoner being strip searched, if I'm a prisoner changing in my cell, if I'm a prisoner on my way to the shower, there are intimate details, there are privacy implications that do not occur on the street because prisons are peoples' homes, in reality, as well.

So I would encourage-- As we learned just this week, the Commissioner announced that he was rolling out a couple hundred bodycams at Edna Mahan specifically. I hope that he provides the Legislature and this Committee broadly, and certainly the sponsors and primes, with detailed information about the protocols he plans to have accompany those body cameras. I think so long as we recognize that the public won't be able to see footage of a woman whose strip search is caught on camera; so long as there are protocols around when a camera should be turned off -- if at all -- and what implications there are if it's improperly deactivated when it should be activated, I think it can be a real tool for change.

The last thing I would say though, I do think bodycams have the potential to supplement regular surveillance cameras. We know-- We've heard the horrors of the rooms that aren't captured on camera; the corners that aren't captured on surveillance cameras in the prison setting, and bodycams will fill some of those gaps. I would just remind you that they only capture things from the officer's perspective, and so it's

important, also, that we sort of recognize that the officer him or herself may be capturing another person's bodycam footage, and that being critical to the investigation as well.

So I would encourage you to continue to work with the DOC on their protocols surrounding this, or your legislative direction for what those protocols ought to be, and to ensure that the footage -- although it's not publicly accessible the way police bodycam may be subject to public inspection -- that it is accessible to the Ombudsperson; that it is accessible to the prisoner who is captured on the footage, as well as to the prisoner's attorney; and that there is some sort of legal implications or credibility determinations that are presumed when a camera ends up being turned off when it should have been turned on.

And I think with all those additional protocols and protections in place, it offers the possibility to be a real tool for accountability and transparency. And we're looking forward-- We're grateful for the opportunity to talk about this offline, and we think it offers a real promise with those added protections.

ASSEMBLYWOMAN MCKNIGHT: Thank you.

I yield.

ASSEMBLYWOMAN MOSQUERA: Thank you very much, Assemblywoman McKnight.

Ms. Borden, thank you for your testimony. You've given a lot of information to both Committees, something that we should definitely be analyzing. So you gave us basically a lot of food for thought.

Just-- If there's anybody else, I just want to give the Committee one more opportunity to make any--

ASSEMBLYMAN AUTH: Yes, good afternoon. This is Assemblyman Auth. I do have one question for the last witness.

ASSEMBLYWOMAN MOSQUERA: Sure, Ms. Borden? Go on.

ASSEMBLYMAN AUTH: Would you be able to forward some bullet points of your recommendations and links to the reports that you referenced in your testimony today?

MS. BORDEN: With pleasure; I'd be grateful to. Thank you.

ASSEMBLYMAN AUTH: Thank you so much, I appreciate it. It was riveting; it was a lot of information in a short period of time, and my colleagues and I have been talking offline and everybody agreed that you had some very critical information that we need to review, and we'd like to do that.

MS. BORDEN: Thank you so much; thank you for the opportunity to appear before you, and thank you for taking these issues so seriously. I know that your work continues and I hope that I can support that work.

ASSEMBLYMAN AUTH: Well, thank you very much for your input, we-- I really appreciate it, personally, so thank you.

Thank you Chairwoman.

ASSEMBLYWOMAN MOSQUERA: If there are no other questions from the Committee, I would like to basically wrap up. It's been a long day.

I just want to say thank you to everybody who was here, starting with the Commissioner, and everybody else -- all our guests; specifically those inmates, those former inmates who were here. Ms.

Goldsmith, Ms. Thornton, thank you so much. I was blown away by your testimony, and I hope that we walk away from this Committee learning more through your eyes -- what you went through, your experience, and see how we can definitely provide a real change in the Department; and specifically through all our facilities of the State, but more particularly, since this about the Edna Mahan facility, what we can do to protect those women who are in there.

So my only closing remark is basically that we have a lot of work to do -- both Committees. Not only us as members of the Judiciary and members of the Women and Children Committee, but just as a whole - - as a body, with both the Assembly and the Senate. We have an opportunity to do some real change and try to see how we can change the culture of not only Edna Mahan, but just the prison culture throughout the State. Because we're talking about the lives of individuals, the dignity of individuals.

So that is all for now, but we have a lot of work to do. This has been a very informative day.

Chairman.

ASSEMBLYMAN MUKHERJI: Thank you. First of all, thank you Chairwoman Mosquera for your work -- and Vice Chair Swain, ranking member Muñoz, and members of the Women and Children's Committee -- with coordinating with us today. Members of the Judiciary Committee, Vice Chair Murphy, thanks for spending the day and putting in so much work and time into this inquiry, which is far from over. As Gabby said, we have a lot of work left to do.

Ms. Borden and all of the witnesses, including Commissioner Hicks and the Ombudsperson, Mr. DiBenedetti -- I appreciate all of you showing up; many of you spending the entire day waiting your turn.

To the inmates -- you know, it's really important that we recognize that Ms. Thornton and Nafeesah -- Ms. Goldsmith -- they endured this years ago, right? JPay wasn't even around. But what they endured and they saw others endure at Edna Mahan, that it continues to this day when we've known about it all this time.

And as I wrap up, I do want to acknowledge, again, the staffers who make our continued work on Edna Mahan and on the State Prison System possible. I want to acknowledge Mark Iaconelli and Shannon Natale; Ian McLaughlin; Frank Ferantelli; Kristen Powell; of course Jen Taylor of the Majority Office; and Seth Hahn. I want to thank, from the Minority Office, Kevin Logan, Natalie Ghaul; and from OLS, Miriam Bavati and Michele LeBlanc.

And this Committee's work is far from done. There is no doubt, just as last year's Federal report states, that there has been a pattern of abuse and behavior at Edna Mahan that violates the 8th Amendment rights of the inmates. And there's little doubt in my mind that despite what we heard about today -- some progress in implementing remedial measures in the Dignity Act legislation -- these 8th Amendment violations continue, and inmates remain in harm's way; which by the way, means staff and decent officers are also in harm's way until the culture is changed.

Maybe the Federal monitors will have better luck; I pray that they will. Meanwhile, these Committees will be considering legislation -- legislative action -- that can have true impact beyond the already robust

Dignity Act framework, which became effective last year but hasn't even been fully implemented.

There has existed for years a culture of impunity at the Edna Mahan Correctional Facility for Women, and there needs to be a culture of accountability. So we will share our continued work with the public.

Thanks everybody, and we will stand -- if Chairwoman Mosquera, you're good -- we will stand adjourned.

ASSEMBLYWOMAN MOSQUERA: I'm good. We stand adjourned.

**(MEETING CONCLUDED)**