

**Testimony before the
New York City Council
Committee on Criminal Justice
Chair Sandy Nurse**

**By
Francis Torres, First Deputy Commissioner
NYC Department of Correction**

September 27, 2024

Good morning, Chair Nurse and members of the Committee on Criminal Justice. I am Francis Torres, First Deputy Commissioner of the New York City Department of Correction (“Department” or “DOC”). My colleagues and I are here to discuss several legislative introductions (“Intro.”) being proposed by the members of the City Council. The DOC continues to be an agency in reform, striving to bring about effective change that will advance our mandate of creating a safer and more humane jail system for everyone who works and lives here. They deserve no less.

Deaths and Serious Incidents in Custody

There are several bills on the agenda today related to procedures surrounding deaths and serious incidents in the jails. Any loss of life in our jails is a tragedy and our condolences and thoughts go out to the families and loved ones who have gone through this experience. When an individual in custody passes away or experiences a serious incident or illness with a potentially fatal prognosis, we immediately deploy our Chaplaincy Services staff to make an in-person notification to the next of kin that has been identified by the individual when they entered our

custody. Our chaplains deliver the terrible news with compassion and stay with the family member or loved one, if the family desires, to process the loss, pray, and help them cope. We believe it is imperative to make these notifications in person and to make them first to the next of kin, so that they do not have to hear about the loss of their loved one from a press release or otherwise in the absence of support. In addition, DOC chaplains, social workers, and counselors will respond to a housing area or other affected area following a loss of life to engage with the people in custody who may have witnessed the event and provide support and trauma-informed care. DOC staff will also make referrals to CHS mental health staff for further treatment and follow-up. DOC staff also follows-up with staff assigned to the person in custody's housing area who are impacted by the loss.

In addition to notifications to next of kin, following a death in custody, DOC immediately notifies proper authorities and oversight bodies, as well as the individual's attorney of record, and begins the process of investigation. Records are turned over to the Board of Correction ("Board") and other oversight bodies as soon as they are available. Serious incidents, including deaths in custody, are reviewed jointly with Health + Hospitals/Correctional Health Services (CHS) so that both agencies can collaboratively address any deficiencies identified and plan for corrective action and prevention efforts moving forward. If DOC staff misconduct is identified in relation to an incident, the Department takes corrective action including training and education, and issues discipline when warranted, up to and including termination. Incidents may also be subject to further investigation by other oversight and investigative bodies, which may include criminal charges. The Department fully cooperates with independent investigative bodies – such

as District Attorneys, the Department of Investigation, and the State Attorney General – in these matters.

Turning to the proposed legislation, Intro. 423 would establish procedures following the death of an individual in custody, including public notifications and reporting related to the incident, as well as reports related to staff misconduct and compassionate releases. The Department has significant concerns with this bill. Intro. 423 creates several mandatory timeframes for making notifications and requires public reporting on details of a death in custody that do not align with on-the-ground realities, best practices, or due process. First, the timeframes for notification do not allow the Department enough time in all cases to contact the next of kin and make a compassionate notification. Second, the public reporting required of the Board following a death in custody would require the publication of protected health information, without taking into consideration the wishes of the deceased or their family, and in violation of health privacy laws. Further, Intro. 423 would require the Board to publish specific details related the incidents prior to the completion of investigations by other investigative bodies. This would interfere with ongoing investigations and may adversely affect the outcome of proceedings related to those investigations. The requirement for the Board to publish the names of DOC and CHS staff that it determines were “involved in the circumstances that contributed to” deaths may put individuals who work in the jails at great risk of harm from retaliation and would deprive those employees of their due process rights and other legal protections. This would undeniably affect morale and contribute to even greater challenges in recruiting and maintaining staff to do this vital work for our city. Finally, the Department is unable to track or subsequently report on individuals released from custody due to a medical

conditions, or what are colloquially known as “compassionate releases.” This is because the Department does not advocate for the release of individuals in custody on medical grounds. In addition, individuals may be released at the discretion of a judge for a variety of, including on the basis of a medical condition, and DOC is not informed of the basis for release as ordered by a judge. Individuals who are discharged following a request for release based on a medical condition are typically released on their own recognizance and recorded as such.

Intro. 206 would require uniformed members of service to carry opioid antagonists, commonly referred to as Narcan, on their person. The Department supports this legislation and looks forward to working with the Council to ensure the requirements outlined in the bill are aligned with operations. For example, reporting related to medical events such as suspected overdose are more appropriately tracked by our partners at CHS.

Housing and Treatment of Transgender, Non-Binary, and Intersex Individuals

Now I will turn to proposed legislation concerning the treatment and housing of transgender, gender nonconforming, non-binary, and intersex (“TGNBI”) individuals in the Department’s care. DOC is committed to ensuring that TGNBI individuals are treated with dignity and respect and housed safely and appropriately while in city jails. We are a national leader in this area and are proud that jurisdictions across the country look to us as a model for safe and progressive policies related to the housing and treatment of TGNBI individuals.

Gender identity is self-reported by individuals in custody, typically during intake, and the Department does not require or receive any information related to the person’s medical history to affirm an individual’s self-report. The Department houses between 30 and 50 TGNBI individuals at any given time, a majority of whom identify as transgender women. Individuals are

housed in a facility consistent with their gender identity, absent overriding security or management concerns. Living in gender-affirming housing with others who have shared experiences provides support, community, and affirmation, and makes incarceration less traumatic. Moreover, as history shows, TGNBI individuals face a greater risk of assault, discrimination, and humiliation if placed in a housing unit that is misaligned with their gender. Simply stated, we recognize that sex assigned at birth cannot determine placement.

In addition, the Department operates a Special Considerations Unit (“SCU”) to provide TGNBI individuals the opportunity to live with others with shared experiences. However, it is important to recognize that many TGNBI individuals prefer to reside in the general population in the Rose M. Singer Center (“RMSC”), and others prefer to be housed in a men’s facility; their preference should be given great weight. TGNBI individuals are not a monolith – each individual has unique needs and challenges – and they differ in where they feel safest. Self-identified gender is a very important factor to consider in any housing placement, but it cannot be conclusive. An inflexible policy of placement based on self-identified gender would present safety concerns for transgender men, who could be subject to sexual harassment, abuse, and violence if placed with cisgender men, and who typically prefer to be placed in a women’s facility. In short, there is no one-size-fits all approach to housing determinations, and our placement policy must reflect that reality.

DOC has serious concerns with Intro. 625, which would establish certain requirements and procedures related to the housing of TGNBI individuals in the Department’s custody. As drafted, the bill would create an untenably high burden for making housing determinations in the case an individual identifies as TGNBI. It would allow for only one reason to deny an

individual's preferred housing placement, which the bill describes as a "current danger of gender-based violence against others." Notably, there is not a charge or conviction associated with this term, nor is it associated with a particular gender; the Department is not in a position to determine whether an individual is presently going to commit a violent act, nor their motivation for that act. It is not possible to make a determination based on this criteria, especially one that meets the burden of "clear and convincing evidence." This standard is not present in any other housing determination for general population housing. Taken together, what this would mean is that all people coming into custody will effectively be able to be transferred to a different facility at will, at any time, simply by stating that they identify as TGNBI. It is not possible to run a jail this way. It is not safe, especially so for women and TGNBI individuals. DOC is committed to treating all persons in custody equitably, regardless of gender, and has enacted groundbreaking policies that outpace other jurisdictions based on this principle. That said, it is incumbent on the Department to ensure a safe and humane environment for all persons in our care.

Intro. 1027 requires CHS staff to offer gender-affirming items and medical devices to all people entering DOC custody. At present, all TGNBI individuals in custody have access to toiletry and clothing items that align with their gender identity and gender expression, regardless of where they are housed. This includes chest binders, which allow individuals to appear more traditionally masculine if they choose. In addition, we work closely with Correctional Health Services ("CHS") to ensure that TGNBI individuals can access gender-affirming health care, including medical devices. DOC is concerned with the requirement for medical staff to offer items to individuals in custody that are not related to a medical issue, especially if the person has not made such a request. Any item that is added to the Department's list of permissible items must

be reviewed for safety and security concerns, and should be made accessible through procedures established by DOC. The Department is exploring additional items that can safely be added to the list of permissible items.

Finally, Intro. 152 would extend the duration of the existing task force related to the treatment and housing of transgender, gender nonconforming, non-binary, and intersex individuals. The Department regularly participates in this task force and has worked with members to implement recommendations from the task force and welcomes further collaboration with advocates and with those with lived experience in this space. The Law Department is reviewing the legislation closely and we look forward to working with the Council on some aspects of the bill.

Sexual Abuse and Harassment

The New York City Department of Correction has a zero-tolerance policy regarding sexual abuse and sexual harassment. When the identified victim is a person in custody, the Department is guided by the federal Prison Rape Elimination Act (PREA), which provides standards for prevention, detection, and response to sexual abuse and harassment in correctional facilities. We recognize that reporting an incident of sexual assault can be incredibly difficult, and the Department provides many different pathways for people in custody to report an allegation. The Department's PREA Compliance Unit conducts in-person orientation with all new admissions. This allows individuals to ask the PREA Facility Compliance Unit staff questions during the orientation or privately at its conclusion. During the orientation, staff inform people in custody of the many ways to report an allegation. People in custody can report an allegation to the Department, by speaking with facility staff from any unit, whether uniformed or non-uniformed,

or PREA staff who tour the facilities regularly, or by calling a confidential hotline. They can also make reports to the Board and the Department of Investigation, and by calling 311 or the Safe Horizon hotline confidentially.

In addition, sexual abuse reporting hotlines are stenciled throughout all facility corridors and housing areas, so they cannot be removed or defaced. Reporting methods are also outlined on posters throughout the facilities. All DOC staff, as well as contractors and volunteers who work with people in custody, are required to take a training designed to identify and eliminate sexual harassment and abuse, which directs participants to take all reports seriously and forward reports immediately to the Department's PREA Investigation Unit so they can be investigated. Once a report has been received, the PREA Investigation Unit responds, usually within 24 hours, to take initial statements and ensure victims are separated from their alleged perpetrators, offer counseling, medical and mental health support, and collect evidence. The Department takes every allegation of sexual misconduct and sexual harassment seriously and investigates each complaint thoroughly. It is the Department's goal to achieve full compliance with all PREA standards, as well as provide a safe environment for all staff and persons in custody.

When the identified victim is a staff member, a separate process is undertaken that is not within the purview of PREA guidelines and is managed by the Department's Correction Intelligence Bureau ("CIB"). Following a report, CIB interviews the victim as soon as possible, usually within 24 to 48 hours, and collects witness statements and other potential evidence to support a charge and arrest. Once the arrest is effectuated, all pertinent documents are forwarded to the Bronx District Attorney ("DA") for review and handling. The Bronx DA ultimately determines if a matter will be pursued, and if so, the DA will manage any further investigation.

We recognize that assaults on staff, including sexual assault, or harassment perpetrated by individuals in custody or other staff, are no less sensitive or traumatic. Support and resources are provided for as long as it is needed by the Department's Correction Assistance Response for Employees (C.A.R.E.) Unit, including counseling, spiritual guidance, and referrals to professional providers.

Intro. 735-A would require the Department to report on allegations of physical violence, including sexual abuse, as well as sexual harassment perpetrated against DOC and CHS staff. While we support the intention of Intro. 735-A, it appears to be modeled on existing mandated reports related to PREA allegations and investigations. Because the process for investigating these matters are quite different and are handled by different agencies, the Department is not able to report on cases of assault against staff in this manner. Further, the bill would require DOC to publicly share numerous and specific details about very sensitive events, without the consent of the victims. We are concerned that reporting of this nature will discourage victims of sexual assault from reporting. We look forward to working with the Council to address these concerns.

Visitation

Finally, there are a number of bills on the agenda today intending to support improvements to the visitation process. DOC recognizes the importance of maintaining and strengthening family bonds during incarceration. We have created robust, nationally recognized programs to support these goals, in consultation with non-profit organizations and other city partners, and are committed to building on these programs. The Department supports the intent of these bills and looks forward to working with the Council on the legislation to better align with agency operations in a way that will meet its goals.

Conclusion

There are a number of bills under consideration today, all on important topics. The Department is committed to building safe and humane jails for both staff and people in our care. Our work is dynamic and challenging, and there is no one-size-fits-all approach to anything we do. We recognize that processes surrounding vulnerable populations and tragic and sensitive events should be transparent and compassionate, and ensure procedural justice. We are eager to work with the Council to ensure we achieve our mutual goals. My colleagues and I are available to answer your questions.

Testimony
Of
Lorenzo Van Ness
Director of Community Organizing and Engagement
NYC Commission on Racial Equity (CORE)

Before the

New York City Council
Committee on Criminal Justice

On

Friday, September 27th, 2024

Good morning, Chair Nurse, and members of the Committee on Criminal Justice. My name is Lorenzo Van Ness, my pronouns are they and them or elle in Spanish. I have the honor of serving as the Director of Community Organizing and Engagement at the NYC Commission on Racial Equity (CORE).

CORE is a 15-person led independent commission established through the November 2022 ballot to hold government accountable to advancing racial equity in government operations and increasing community voices in government decision making. We are charged with carrying out five mandates, the first of which is to work with local community members to identify community equity needs and priorities they view as most relevant to their wellbeing. As per NYC Charter section 3404, we work with all New Yorkers to complete this task and give particular consideration “to the priorities of groups or categories of community members that have been historically underrepresented in, or underserved by, government and its processes.”

The LGBTQIA+ community are identified in our NYC Charter as a marginalized community. Additionally, through our citywide engagement, New Yorkers identified people who are or who have been incarcerated, and who have a loved one currently or formerly incarcerated as part of communities who are marginalized in our city. My testimony today is in support of increasing government efforts to be accountable to members of the LGBTQIA+ Community, and all community members that experience, and are connected to the carceral system.

As a Queer Trans Latinx New Yorker, I have fought for access and justice throughout my career. My personal and professional work is informed by my relationships with those who have been incarcerated or have a loved one who was incarcerated. These relationships have taught me that incarceration compounded by inhumane treatment while incarcerated results in psychological and physiological harm, injury, and sometimes death. Every life injured, harmed, or ended has a profound impact on our city. In August of 2024, Vera reports that the city lost at least 33 people while in custody since January of 2022. Each of those people are New Yorkers. Each of those people are someone’s loved one. Each of those people should be with us today.

To begin, we must first acknowledge that Black and Latinx communities, as well as Trans, Gender Non-Conforming, Non-Binary and Intersex (TGNCNBI) people are disproportionately represented in Department of Corrections custody. In 2023, the New York Civil Liberties Union reported the TGNCNBI community are heavily policed and criminalized, face multiple barriers and forms of discrimination when seeking basic needs such as housing, food, and education. One in six transgender people report being incarcerated at one point in their life, which jumps to one in two for Black transgender women. NYCLU also shared that TGNCNBI community members incarcerated are 10 times more likely than the general population to be sexually assaulted by other people incarcerated and by correction staff. TGNCNBI people are also disproportionately represented in the care, mental and health services offered by our city.

New York City has a legal obligation and a moral imperative to ensure people are housed in alignment with their identity and have access to healthcare and treatment that recognizes their full humanity and treats them dignity and respect. Furthermore, the City has a legal responsibility to properly house Trans, Gender Non-Conforming, Non-Binary and Intersex (TGNCNBI) people. News outlet The City reported in March 2022 that 63 percent of 41 trans people held in custody were in gender-misaligned housing, which is 43 years after a special unit on Riker's Island to house gay and transgender people was built.

Over the past three months, CORE has heard from more than 4000 New Yorkers on the needs and priorities NYC government should address to improve their well-being. Priorities also included increasing mental health supports, holding New York City government staff accountable, and transforming jails into rehabilitation centers, and increasing and appropriately funding oversight and accountability bodies. An early analysis of the data, we are able to share that most New Yorkers (over 50 percent) agree with our priorities and have emphasized the need for additional programming in jails to prevent recidivism and increase the mental and physical health of the person incarcerated. New Yorkers want government staff, in this matter we are referring to individuals employed at incarceration centers, and those contracted to work in incarceration centers, to be held accountable for their actions.

Proposed legislation Intro No. 412, 423, 625, 152, and 1027 lets New Yorkers know that you, their government representatives hear them. These bills respond to the calls for accountability and transparency by people impacted by the carceral system and honors the lives lost to the system and violent race and gender-based discrimination against the TGNCNBI community. If passed, Intro No. 412, 423, 625, 152, and 1027 will change how our city government carries out its duties, obligations, authorities and powers to produce racially equitable and gender identity affirming practice, enhance the services and the impact of services, and will hopefully lead to increase trust in our city. Increased accountability practices can enhance preventative measures, which New Yorkers consistently call for, to ensure that we do not perpetuate harm. Proposed new policies that recognize and respect the gender identity of each person – staff and person incarcerated- and create access, and opportunity to wellness programs, our city enact the newly established fundamental values in the city's preamble:

1. Our government justly values all talents and contributions
2. Our government ensures the condition of thriving for every person.
3. Our government embraces vigilance, remedy, and reconstruction.

Fundamental values in the City Charter preamble guides all of New York City government on how to ensure dignity, respect, and humanity for all in a multiracial democracy. New Yorkers working or being housed in NYC Department of Corrections facility or are under state supervision must have access to healthcare and treatment that recognizes their full humanity. Our partners across the five boroughs want to co-create a system that values humanity, accountability, and transparency. Our communities are here today telling us what they need to feel safe, protected and to thrive, we must listen. We urge council to pass Introductions 412, 423, 625, 152, and 1027 with recommended amendments to move us further towards a more racially equitable city.

Testimony to the New York City Council Committee on Criminal Justice

NYC Health + Hospitals/Correctional Health Services

September 27, 2024

Good morning Chair Nurse and members of the Committee on Criminal Justice. I am Bipin Subedi, Chief Medical Officer for NYC Health + Hospitals/Correctional Health Services, also known as "CHS." I am here with my colleague, Jeanette Merrill, CHS' Sr. Assistant Vice President of Communications and External Affairs. We appreciate the opportunity to participate in today's hearing on the proposed legislation. My testimony will focus on providing information on the impact that three of these bills would have on our service provision and operations, including concerns we have about how some of these proposals could adversely affect patient care and staff safety.

Intro 423 - in relation to procedures following the death of an individual in custody of the department of correction and a report on compassionate release

CHS strongly opposes several aspects of Intro 423, which would require the NYC Board of Correction (BOC) to issue a public report on its investigations into the deaths of individuals in the custody of the NYC Department of Correction (DOC) and to include the names of CHS employees whom the Board determined were "involved in the circumstances that contributed to" the deaths. The bill would also require CHS and DOC to "conduct a joint investigation of each death of an individual in custody of the department, including the review of all medical records" and to submit a joint report of the findings to BOC. It would also establish a "jail death review board," with CHS participation, in order "to identify systemic issues that contributed to such deaths." Finally, the bill would require a public report on "individuals who have been released from custody due to a medical condition."

We have serious concerns about the bill's requirement that BOC publish the names of CHS employees "involved in the circumstances that contributed to" a death. Publicly naming health care staff following an adverse clinical event contradicts the approach recommended by national professional organizations, such as the American Medical Association and the American Nurses Association. These groups caution against an unnecessarily punitive approach precisely because it promotes a culture that deters disclosure and frank, introspective, and exhaustive discussions of the events surrounding adverse clinical events. They also recognize that there is a range of accepted clinical practice within which clinical judgment is exercised, and that the context in which health care is delivered should be considered in reviews.

Reviews are best conducted by individuals who have the clinical expertise and nuanced understanding of CHS workflows and the actual clinical and environmental circumstances at the time care was rendered. Retrospective reviews, especially if conducted by non-clinicians unfamiliar with this unique context, can result in second-guessing after the fact. Given this, publicly naming CHS staff may not only risk mistakenly attributing an adverse event to a clinician, but it could also serve to minimize and distract from the complexity of care delivery in the jail environment, including the impact of jail operations on individual health. This would adversely affect CHS morale, retention, and recruitment and would interfere with our ability to investigate, identify, and remediate root causes in order to prevent recurrences.

CHS was established as a new division of NYC Health + Hospitals, in part, to bring greater transparency and accountability to the provision of health care in New York City jails after decades of contracted health care providers, most recently Corizon, a for-profit correctional health care company. As a new division of our municipal health care system, CHS adopted and expanded a clinical review process for each death,

structured around well-established and universally accepted quality assurance principles and protocols in healthcare. This multistep, rigorous approach, which begins immediately after every patient death, includes video and record review, discussions with relevant staff members, and a focused case review with CHS clinical leadership. The review process identifies areas for improvement and, wherever appropriate, corrective action plans to improve care quality, even when not directly related to the cause of death. This process precedes the additional supplemental death reviews conducted by the NYC Health + Hospitals Board, the NYC Board of Correction, and the State Commission of Correction (SCOC).

When applicable, CHS' Human Resources and clinical leadership ensure staff involved in an adverse clinical event receive counseling, training, and education and, when warranted, discipline. This occurs in consultation with CHS' health care unions – the New York State Nurses Association, DC37, 1199, and Doctors Council – to ensure our doctors, nurses, and other health care staff receive appropriate professional development, as well as legal protections. Our staff are also accountable to applicable State licensing boards.

In accordance with applicable laws, CHS does provide BOC – and other authorized agencies and oversight boards, including SCOC – the medical records of a person who dies in DOC custody and works with BOC as they review the case and write their public report. CHS also provides, with patient consent, complete and select patient medical records to defense attorneys on request. CHS has established a productive working relationship with BOC in conducting thorough reviews of the draft reports. This includes sharing information, providing feedback, correcting errors, and, ultimately, responding to the recommendations.

Additionally, CHS and DOC jointly hold a Joint Assessment and Review (JAR) following all in-custody deaths. CHS established the JAR process in 2016 to specifically examine the systems and environmental aspects unique to carceral settings within which clinical care is provided. This forum enables CHS and DOC leadership to share relevant findings and insights from each agency's independent review of a significant adverse event and to together identify systemic risk-reduction remedies that could reduce the likelihood of recurrence of such an event. This includes the sharing of limited clinical information when relevant to discussing operational factors that may have contributed to a death. The current JAR process was recently evaluated and supported by a court-appointment monitor related to the Nunez Settlement. We believe that the work of the JAR, coupled with that of the BOC's current death review and report, meets the intent of the proposed "jail death review board".

Regarding "compassionate release," CHS' Clinical Court Advocacy team provides defense counsel, with patient consent, clinical letters for our most medically complex patients. Attorneys may use these letters, which describe the individual's medical conditions and treatments, when advocating for their clients to the courts. When applicable, CHS will explicitly indicate when a patient has a serious medical condition that would benefit from clinical interventions that are not available in the jail setting.

As noted in a July 2023 Special Report by the Nunez Independent Monitor: "Release is not automatic, and an individual determination must be made by the Court. If the court determines release is appropriate, the Department is notified via a court order that the individual is being released on their own recognizance ("ROR"). However, the order does not specify a medical reason for the release." Therefore, neither CHS nor DOC could issue a "report on compassionate release" that identifies "individuals who have been released from custody due to a medical condition," as Intro 423 would require, as the Court may weigh several factors, including those that are not clinical, in deciding to release an individual from custody.

Intro 412 - in relation to notifying emergency contacts and attorney of record when an individual in custody attempts suicide, is hospitalized, or is seriously injured

CHS opposes Intro 412, which would require CHS to request authorization from every person in custody to notify the individual's attorney of record and emergency contacts, within one hour, should the individual attempt suicide, become hospitalized, or be seriously injured. The bill would also require CHS to ascertain the individual's attorney of record for this purpose, upon request from the incarcerated individual.

CHS recognizes the importance and value of communicating effectively with patients and, as permitted, external parties about the health care we provide. CHS' Patient Relations department manages concerns and inquiries from patients, family members, and attorneys relating to CHS' health services, and – with patient consent – can communicate directly with a patient's loved one about the individual's care. In addition, CHS' Clinical Court Advocacy team serves as a resource for defense bar and, with patient consent, facilitates communication among health care staff, attorneys, and patients. Regarding hospitalization, hospital staff are best situated to notify the family members of people in custody following a hospitalization, as hospital staff, not CHS staff, determine admission and serve as the treating physicians.

CHS understands that our patients' relationships with their attorneys, family members, and other loved ones are unique and dynamic, and we believe that any clinical communication about suicide attempts and serious injuries deserves an individualized and tailored approach. Accordingly, CHS clinicians will speak with a patient's loved ones about the complicated, often sensitive, factors and circumstances that may have led to or surround a significant medical event, but these conversations are, and remain, individualized, deliberate, in-depth discussions between the loved one and primary provider, not a universal "real-time" notification.

Intro 1036 - in relation to requiring the department of correction to provide reports regarding people in custody who have been ordered to undergo a mental health examination

CHS supports with modifications Intro 1036, which would require quarterly reports related to individuals in DOC custody who are ordered to undergo fitness to proceed evaluations, also known as 730 examinations, as well as information about these examinations, including the timeliness of the reports.

In order to create one unified system and to improve the quality and timeliness of evaluations, CHS consolidated and assumed management of the four Forensic Psychiatric Evaluation Court Clinics located in Manhattan, Bronx, Brooklyn and Queens. Under Criminal Procedure Law § 730, these clinics conduct court-ordered psychiatric evaluations of adult criminal defendants in order to assess competence to stand trial and support pre-sentencing investigations. CHS' forensic examiners, via their written reports, offer forensic psychiatric opinions regarding whether the defendant is an incapacitated person, meaning a defendant who, as a result of mental disease or defect, lacks capacity to understand the proceedings against him or to assist in his own defense. However, only a judge can legally determine if the individual is ultimately incompetent—that is, not fit to stand trial.

CHS currently collects and analyzes much of the information required by Intro 1036, and while we would propose minor amendments to some of the metrics outlined in the bill, we support making the information public through regular reporting.

We thank the Council for the opportunity to speak today about the important issues addressed in the legislation and are available to answer any questions you may have.



**COBA PRESIDENT BENNY BOSCIO JR's
TESTIMONY BEFORE THE NEW YORK CITY
COUNCIL COMMITTEE ON CRIMINAL JUSTICE**

**Hon. Sandy Nurse
Chairwoman**

NEW YORK CITY COUNCIL

September 27, 2024

My name is Benny Boscio. I am the president of the Correction Officers' Benevolent Association. My members, as you know, provide care, custody, and control in the nation's second-largest municipal jail system, which has approximately 6,500 inmates under our supervision.

Before I address some of the Bills being introduced by this Committee, I want to remind the entire City Council that our members are essential first responders. Our members risk their lives every day to keep this city safe. And while we are out of sight and out of mind and often unfairly scapegoated for all the problems in our jails, the fact remains that New York City Correction Officers protect and save lives every day.

We recover weapons and drugs in our facilities every day. We intercede while violent gang members are assaulting, slashing, and stabbing one another to protect the people in custody and staff they are attacking. We prevent suicide attempts regularly that you, unfortunately, never hear about. We administer Narcan to revive people in custody, who have unfortunately overdosed from drugs. We ensure that the people in our custody are afforded all the programming and services they are entitled to, escorting them safely to and from their court appearances and their medical appointments. We also go beyond the call of duty when emergencies unfold and lives are on the line.

A perfect example of this is the heroic actions by Correction Officers Barbosa, McQueen, and Stanislaus, who jumped into action to save the life of a one-year-old baby, who was choking on food lodged in his throat, following a visit with his father. Correction Officer Barbosa performed CPR four times on the baby, using his training as an EMS worker, prior to becoming a Correction Officer, to help keep the baby alive while waiting for an ambulance to arrive.

It is a shame that the mother of the baby was not invited to attend today's hearing to show the city the true character of the men and women I am so proud to represent. It is a shame that this Committee never highlights the essential services we perform under the most challenging conditions imaginable. Instead, inmate advocacy groups, such as the "Freedom Agenda" are permitted to provide their narrative before any other stakeholder is permitted to speak, including even the Department of Correction. When COBA has testified in the past, we were relegated to speak for only three minutes during the public portion of those hearings, well after most of the members of the Committee had left.

We also find ourselves at these hearings discussing proposed legislation that directly affects the safety and security of everyone in our jails, yet we are rarely consulted by the sponsors of these Bills, despite the direct impact they have on my members and the people in our custody. This is inexplicable given that COBA, representing approximately 5,300 correction officers, is a major stakeholder in our criminal justice system and security experts in the field of corrections. Many of you have never even reached out to me as the president of the union, with over 25 years of experience as a correction officer, to seek my input on this proposed legislation and how it impacts everyone in our facilities.

I would like to thank Council Member Althea Stevens for meeting with members of our union on many occasions to discuss the ongoing epidemic of sexual assaults on Correction Officers. She has worked collaboratively with us to shine a spotlight on this critical issue. Council Member Stevens has sponsored Intro 735A, which would amend the administrative code of the City of New York, to require the Department of Correction to report on physical violence against and sexual harassment of correctional staff and ensure that staff have access to mental health treatment resources.

Currently, the Department does not publicly report incidents of sexual assaults against our officers on the DOC website. But we know these incidents are happening on a regular basis. Since December of last year, there have been a dozen sexual assaults against our officers committed by the inmates under our supervision. Many of these assailants are in custody on charges of rape, attempted rape, and assault in the first degree. Since 2021, nearly a hundred Correction Officers and civilian staff have been victims of inmate sexual assaults.

These incidents should not be ignored. They should be quantified and publicly disclosed on a regular basis so that policymakers from the City Council, the Board of Correction, as well as our state legislators, can clearly understand the pervasive epidemic of sexual assault and sexual harassment that our members are subjected to and hold their assailants accountable for these crimes.

Our only recommendation to this proposed Bill is to modify the frequency of the reporting to be on a monthly or quarterly basis rather than annually. This data is far too important to be withheld from the public until the following year. I thank everyone on this committee who has co-sponsored this legislation and urge the full council to pass it so it can be signed into law and help make our facilities safer.

That being said, Intro 1027, which would amend the administrative code of the City of New York, in relation to requiring that people in the custody of the Department of Correction have access to gender-affirming items and medical devices, would make our jails less safe. To be clear, COBA fully supports the rights of individuals to affirm their own gender identity. But allowing inmates access to prosthetics, wigs, and other devices would also enable them to use these very same devices to hide drugs and weapons, such as make-shift razor blades, that could easily be used to assault other inmates and our officers.

Since January 1, 2024, our officers have recovered nearly 1,000 pieces of contraband. Specifically, we have recovered over 600 drugs and over 250 weapons. If these gender-affirming prosthetics and wigs are provided to inmates, who are also in possession of drugs and weapons, the consequences would be deadly. I would encourage the members of this Committee to ask the Department to examine the volumes of contraband we recover and to speak with our officers about all the many ways those pieces of contraband are hidden. Offering more opportunities to hide weapons and drugs to inmates, who seek to commit violent crimes in jail is a recipe for disaster. I urge you to oppose this Bill for the aforementioned reasons.

Intro 206 would require correction officers to carry and administer opioid antagonists while on duty and to receive related training. We are not opposed to the intentions behind this proposed legislation and in fact, many of our officers have used Narcan to revive inmates who have overdosed. Any changes to the terms and conditions of our employment must be negotiated with the union through the Office of Labor Relations, so even if this Bill is passed, COBA will insist on having a seat at the table if and when the Department begins to implement this policy.

While we understand there are several other Bills being considered by this Committee, the Bills I have referenced in my testimony directly impact the safety and security of our facilities.

Safety and security are paramount when operating a correctional facility. It is imperative for this committee to examine the safety and security implications of every Bill that is introduced related to our department. We are not working in an academic think tank dealing with theoretical studies. We are in the business of protecting lives and keeping our city safe. We should always be consulted and

briefed on critical pieces of legislation that affect our safety and the safety of those under our supervision. It is both a slap in the face to us and a disservice to everyone in our jails to shut us out from ongoing discussions concerning DOC policies and procedures. Many of us come from the very same communities as the people in our custody, yet far too often, this council proposes a disproportionate number of Bills to protect the rights of those in our custody, while ignoring the rights of my members. Just because we wear a uniform and a shield doesn't mean our rights should be ignored or diminished.

It is our hope that moving forward, we will be invited to meet with you, just as the inmate advocacy groups are invited to meet with you on a regular basis, to provide our input and work collectively to keep our jails safe and secure. I can be reached via my email address at bboscio@cobanyc.org if you would like to discuss the issues I have raised in my testimony in further detail. Thank you.



The City of New York
Department of Investigation

JOCELYN E. STRAUBER
COMMISSIONER

180 MAIDEN LANE
NEW YORK, NY 10038
212-825-5900

Testimony of DOI Commissioner Jocelyn E. Strauber Concerning Int. 423

Dear Speaker Adams, Chair Nurse, Council Member Rivera, and members of the Committee on Criminal Justice:

Thank you for the opportunity to provide testimony in Int. 423, sponsored by Council Member Rivera, in relation to procedures following the death of an individual in custody of the department of correction and a report on compassionate release.

The New York City Department of Investigation (“DOI”) is the City’s independent inspector general with broad jurisdiction and oversight over more than 45 mayoral agencies and an array of other City agencies, entities, boards, commissions and authorities. This includes the Department of Correction (“DOC”), the Board of Correction (“BOC”), Health + Hospitals (“H+H”), and the Correctional Health Service (“CHS”). In our capacity as Inspector General of New York City, we investigate every death in custody that occurs at DOC and we partner closely with the New York State Attorney General’s Office (“AG”) which is mandated by State law to investigate these deaths. The AG is empowered to bring criminal charges, and in cases where it declines to do so, the relevant District Attorney is authorized to do so. The United States Attorney’s Office for the Southern District of New York (“SDNY”) may also pursue federal criminal charges. Regardless of the prosecuting entity, DOI works closely with the prosecutor to investigate and to prosecute cases involving deaths in custody and has considerable expertise in these types of cases. I write to express DOI’s concerns about the sections of Int. 423 that would mandate new investigatory procedures.

DOI appreciates the Council’s efforts to expedite investigations of deaths in DOC custody and to make the investigative process more transparent. Persons in custody depend on DOC for their physical and mental well-being and each death in custody is a tragedy for the decedent’s loved ones and the City. However, Int. 423 would require a new process that, at best, is redundant of the investigative process that DOI and the AG (and, where applicable, SDNY or relevant District

Attorneys' offices) already follow. At worst, Int. 423's mandated process could interfere with and complicate a parallel criminal investigation of these matters.

New York State Executive Law section 70-b established the AG's Office of Special Investigation ("OSI") which is mandated to investigate and, if warranted, prosecute any alleged criminal offense by an on-duty police officer or peace officer employed by a corrections agency, such as DOC, related to the death of a person in custody. The law gives the AG investigative authority and criminal jurisdiction from the time the death occurs through the culmination of any criminal proceeding or until the AG determines that criminal charges are not warranted. The AG's investigation includes, "(a) gathering and analyzing evidence; (b) conducting witness interviews; (c) reviewing and commissioning any necessary investigative and scientific reports; and (d) reviewing audio and video-recordings." The law also empowers the AG to subpoena witnesses and records.

Pursuant to Chapter 34 of the New York City Charter and Mayoral Executive Order 16 of 1978, DOI also has the authority to investigate deaths in custody. DOI is empowered to interview DOC staff, other persons in custody, or witnesses to a death in custody; to obtain any video, document, or record at DOC needed for its investigation; and to issue court-ordered subpoenas for relevant medical records in H+H's or CHS' possession.

Under current practice, immediately upon the death of a person in DOC custody, DOC notifies DOI and the AG. DOI's Squad 1, which oversees DOC, maintains a 24/7 duty team which is available to respond to any incident at a DOC facility, including incidents of death in custody. The AG and DOC's Special Investigations Unit ("SIU") also respond to these incidents. Jointly, the three entities secure the scene and identify, preserve, and obtain any evidence required for the investigation. DOI then conducts a thorough, independent investigation of the incident, and is available to partner with the AG during the course of its investigation. Where DOI's investigation uncovers any allegation of criminal misconduct against a DOC or CHS employee, it immediately notifies the AG and the appropriate local or federal prosecutor, depending on jurisdiction. If there is a prosecution, DOI collaborates with the prosecutor's office during any additional investigation and throughout the prosecution.

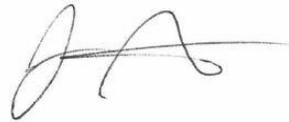
Int. 423 would mandate that a parallel investigation take place by BOC. BOC lacks the authority to bring criminal charges and has fewer resources and less experience than DOI or the AG with respect to deaths in custody investigations. Mandating an additional investigation by BOC would be a poor use of their limited resources in light of the existing DOI/AG investigative process that follows each death in custody.

Moreover, a BOC investigation and mandated public report would interfere with DOI's and the AG's investigations and potentially compromise any criminal case that might be charged. The BOC investigation would almost certainly lead to the creation of multiple statements by individual witnesses, thereby generating additional discovery and potentially inconsistent accounts that could be used to impeach those witnesses in a criminal trial. The proposed legislation also would require publicizing the names of any DOC employees involved in the death in custody as well as any disciplinary action taken against them, which could incentivize DOC to pursue disciplinary action rather than awaiting the conclusion of DOI's and the AG's investigations

concerning potential criminality. A disciplinary proceeding might involve sworn witness statements that, like a BOC investigation, would generate additional discovery and potentially inconsistent accounts, complicating and potentially reducing the likelihood of a successful criminal prosecution.

Accordingly, DOI does not support the legislation as currently drafted with respect to these issues. Should Int. 423 move forward through the legislative process, we welcome the opportunity to work with the Council to amend the bill to ensure that the concerns outlined above can be addressed.

Thank you,

A handwritten signature in black ink, appearing to read 'J. Strauber', with a long horizontal flourish extending to the right.

Jocelyn E. Strauber
Commissioner



Shahana Hanif

CITY COUNCIL MEMBER, DISTRICT 39

Opening Statement of Council Member Shahana Hanif to the Committee on Criminal Justice

*Friday, September 27, 2024, 10 A.M.
250 Broadway - Committee Room, 16th Floor*

Good afternoon, I'm Council Member Shahana Hanif. I regret that I am dealing with a health issue and unable to join in person today. Thank you to Chair Nurse for reading this statement on my behalf, holding this important hearing, and including Intro. 206-A on today's agenda. I'd also like to thank Council Members Rivera, Ossé, Bottcher, and Narcisse and Public Advocate Williams for introducing this bill alongside me.

From 2022 to 2023, at least ten people incarcerated in DOC facilities died of a suspected drug overdose. Intro. 206-A aims to prevent future drug-related deaths by improving policies related to Naloxone (commonly known by the brand name Narcan), a medicine that rapidly reverses an opioid overdose.

This bill would require all Corrections Officers to be trained on how to use Narcan. At a previous Committee Hearing, Commissioner Maginley-Liddie shared that 9% of Officers remained untrained. The bill would also require the Department to offer training upon request to people who are incarcerated.

Additionally, the bill would require Corrections Officers to carry Narcan on their person. At a previous Committee Hearing, former Commissioner Molina noted that this is the operating protocol in other jurisdictions and that he supported this policy in principle. Currently, DOC only stocks Narcan at the "A-Posts" of housing units, which has led to operational issues. The Board of Corrections' reports of Donny Ubiera's death in custody documents Narcan not being available at the A-Post which caused a delay in Narcan being administered.

Further, the bill would require trained Officers to administer Narcan when they observe someone overdosing. In the moments preceding the deaths of Gilberto Garcia, Elijah Muhammad, and Jose Mejia Martinez in DOC custody, Officers observed all three displaying signs of opioid overdose but failed to administer Narcan.

Lastly, the bill would distribute an opioid overdose prevention kit that includes Narcan and an educational insert to all people being discharged from custody. Unfortunately, public defender organizations have reported that a number of their clients have overdosed immediately after leaving Rikers Island.

I'd like to close by thanking Legal Aid Society, Brooklyn Defender Services, Freedom Agenda, and VOCAL-NY for their work in helping to inform this legislation, which I believe would save lives if enacted into law. I look forward to hearing testimony from the Administration and the public.



PUBLIC ADVOCATE FOR THE CITY OF NEW YORK

Jumaane D. Williams

**STATEMENT OF PUBLIC ADVOCATE JUMAANE D. WILLIAMS
TO THE NEW YORK CITY COUNCIL COMMITTEE ON CRIMINAL JUSTICE
SEPTEMBER 27, 2024**

Good morning,

My name is Jumaane D. Williams and I am the Public Advocate for the City of New York. I thank Chair Nurse and the members of the Committee on Criminal Justice for holding this hearing.

Last month, Anthony Jordan became the 33rd person to die in DOC custody. Mr. Jordan was reportedly found dead in his housing unit after being sent back there by jail medical staff the day before.¹ The news of his death came on the heels of the death of Charizma Jones, a 23-year-old whose attorneys allege that she was ignored by jail medical staff while experiencing a serious illness.² Each person lost is a tragedy and devastating for their loved ones and communities. We as a city have a responsibility to care for those in our custody, and when a person dies, we have a duty to investigate the circumstances of their death and notify relevant agencies and the public.

Despite this, last year, DOC stated that they will no longer announce in-custody deaths to the public. Over the prior two years, DOC's media team would issue a press release announcing the death of anyone behind bars, but chief spokesperson Frank Dwyer claimed that this was a "practice, not a policy."³ What happens behind the walls of the jails on Rikers Island should concern all New Yorkers, and transparency is even more crucial given this administration's efforts to shirk it. That is why I am co-sponsoring Intro 423, which was introduced by Councilmember Rivera and is being heard today. This bill would establish procedures for DOC, CHS, and BOC following an in-custody death, and would require DOC to notify the Office of the Chief Medical Examiner, the deceased's defense attorney, BOC, and the public. Further provisions of the bill would require DOC to provide updates on the status of any staff misconduct cases related to the circumstances that contributed to an individual's death, report on compassionate releases and establish a Jail Death Review Board to examine systemic issues that contributed to deaths in custody.

In March of this year, an analysis published by Gothamist found that, of the 1,256 lawsuits filed

¹ <https://www.thecity.nyc/2024/08/23/rikers-island-death-anthony-jordan-investigation/>

²

<https://queenseagle.com/all/2024/7/16/rikers-detainee-dies-after-guards-ignored-plea-for-medical-attention-attys-say>

³ <https://www.thecity.nyc/2023/05/31/correction-jails-not-announcing-deaths-rikers/>

under the Adult Survivors Act, 719—or almost 60 percent—were filed against the NYC Department of Correction.⁴ The allegations span decades, from 1976 to just last year, and are appalling, shocking, but, sadly, unsurprising. Not only do the suits detail allegations including harassment, sexual assault, and rape, but also that DOC knew about the abuse and failed to act, thereby tacitly encouraging the violence to continue. Sexual violence is not limited to the people incarcerated on Rikers Island; for years, officers—primarily women officers, but men as well—have reported that they experience high levels of sexual harassment and assault while at work. Earlier this year, NY1 reported that data shows that there have been at least 87 sexual assaults on officers or civilians in city jails since 2021.⁵ Nobody should ever have to go to work fearing that they may be attacked or harassed. The culture of violence with impunity on Rikers Island is making everyone on both sides of the bars unsafe.

Currently, DOC does not publicly report data on sexual violence and harassment against officers and other DOC and CHS staff. Consequently, today, we are also hearing a bill I am co-sponsoring, Intro 735, introduced by Councilmember Stevens. This legislation would require DOC to report annually on alleged incidents of physical violence against and sexual harassment of DOC and CHS staff perpetrated by fellow staff members or by detained individuals that occurred in the previous year. The bill also requires that DOC use the data to update its policies addressing physical violence against and sexual harassment of staff. Crucially, this bill requires the commissioner to ensure that staff have access to mental health treatment resources and to publicize the availability of such resources to staff. Being assaulted is incredibly traumatic, in some cases leaving officers and staff unable to return to their jobs. It is imperative that we offer survivors the support they need to heal from such long-lasting trauma.

Finally, we are hearing Intro 206, introduced by Councilmember Hanif and co-sponsored by me. This legislation would require DOC to train officers on the proper use of opioid antagonists annually, as well as incarcerated people who request it. Officers would need to carry opioid antagonists at all times while on duty, and must administer it in accordance with their training to prevent more tragic deaths. In October of 2022, Gilberto Garcia died of an overdose on Rikers Island. In a lawsuit filed by his family against the city in August, Garcia’s brother, Gilson—who was also incarcerated in the cell next to his brother—alleges that officers were so slow to respond to Garcia’s distress that he administered Narcan and CPR himself, even though he was not trained to use either.⁶ In July 2023, following the overdose death of Felix Taveras, DOC reported that several officers would face discipline following “violations” in their response.⁷

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<https://gothamist.com/news/late-night-sex-assaults-invasive-searches-the-700-women-alleging-abuse-at-rikers>

⁵ <https://ny1.com/nyc/all-boroughs/politics/2024/03/28/officers-face-sexual-assaults-on-rikers-island>

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<https://www.nydailynews.com/2024/08/19/correction-staff-rikers-cover-up-failures-in-detainees-overdose-death-lawsuit/>

⁷ <https://nypost.com/2023/07/04/rikers-inmate-dies-of-overdose-doc-staffers-facing-suspension/>

Drug use and overdoses in the jails have increased since January 2021,⁸ and ensuring that every officer is trained in overdose prevention is essential.

Thank you.



OFFICE OF THE BROOKLYN BOROUGH PRESIDENT

ANTONIO REYNOSO

Brooklyn Borough President

Committee on Criminal Justice

9.27.24 Hearing on Treatment of People in DOC Custody

Thank you to Chair Nurse and other members of the Criminal Justice Committee for holding this critical oversight hearing today. My name is Hannah May-Powers, and I am the Health and Safety Policy Analyst at the Office of the Brooklyn Borough President. The pieces of legislation being heard today address critical gaps in current policy that shape the Department of Correction and life for the thousands of detained persons on Rikers Island.

Intro 0412

Despite the number of vulnerable individuals under its care, there are no laws that require DOC to notify emergency contacts and attorneys of when a person is seriously injured, hospitalized, or attempts suicide. This leads to a lack of communication between the Department of Correction, detained individuals, attorneys, and emergency contacts. It is common for family members, friends, and attorneys to only learn about these dire situations after a person is back at Rikers Island after being in the hospital.

The necessity of this bill is demonstrated by the fact that hundreds of people on Rikers Island experience serious injury every year. In 2023 alone, there were approximately 900 incidents on Rikers Island that led to serious injury. The Department of Correction has also not adequately improved operational practices that could have prevented injury or death. For example, it is unacceptable that eight people have died due to suicide or suspected suicide since a court mandated that the Department improve its practices regarding self harm in September 2021¹.

These incidents cannot be discussed without also highlighting the use-of-force issues by correctional officers that often lead to the serious injury of detained persons. In a 2024 report, the Nunez Independent Monitor stated that, within the Department of Correction, “the rates of all violence and use of force metrics remain alarmingly high.” Not only are people under the City’s care subjected to both physical and psychological harm at the hands of city employees, but loved ones are often left without critical information on their family member’s well-being¹.

Intro 0423

Thirty-three people have tragically died this year while in DOC custody or soon after being released. The number of lives lost while under the City’s watch is appalling and representative of the systemic issues that plague the Department of Correction².

¹ [Status Report by the Nunez Independent Monitor](#)

² [Fifth Confirmed Jail Death in 2024 Brings New York City’s Total to 33 Under Mayor Adams](#)

In 2023, the Adams administration announced that it would stop notifying the public when someone dies while in custody³. This leads to a broad lack of awareness of the events taking place on Rikers Island. Additional gaps in Department of Correction policy undermine accountability and lead to additional pain for friends, family, and other loved ones. For example, the Department of Correction is not currently required to report on the number of people who pass away after being granted compassionate release. Thus, these deaths are not technically counted as deaths that occur in DOC custody even though the conditions and circumstances of these deaths are often exacerbated by the conditions on Rikers Island.

Not only would Intro 423 mandate that the Department Correction notify the public when deaths occur, but it would also require the Department to issue reports on compassionate releases. The legislation also requires the Board of Correction to issue a preliminary report within 10 days of a death and a final report within 6 months. There is currently no mandated timeline for releasing reports on death investigations. The Board of Correction must also be allotted additional resources to perform any additional legally mandated duties.

Intro 1036

Around half of detained persons on Rikers Island have a diagnosed mental health issue, and around a quarter of detained persons are living with a serious mental illness. Despite the high-level of need for mental health services and evaluations, there is relatively little publicly available information on the quality and efficiency of these services. This lack of transparency obscures the issues and makes it difficult to address the many gaps in services that people on Rikers Island experience.

Common sense improvements such as disaggregating data, mandating quarterly reports on the status of mental health examinations, and knowing the average time to receive a mental health examination and the reasons for delays makes it possible to address inadequacies within the system.

Intro 0152 and Intro 1027

LGBTQ+ New Yorkers are simultaneously over-policed, over-incarcerated, and underserved by the criminal legal system. The mandates discussed in Intro 0152 and Intro 1027 address some of the issues LGBTQ+ people face once they are incarcerated⁴.

The treatment of LGBTQ+ detained persons is of notable concern given that the LGBTQ+ Affairs Unit of the Department of Correction, which the Public Advocates notes made “genuine improvements for LGBT and TGNC New Yorkers Incarcerated on Rikers Island”, has reportedly been drastically reduced⁵. According to a 2022 report from the Transgender, Gender Non-Conforming, Non-Binary, and Intersex People (TGNCNBI) in Custody Taskforce, numerous individuals live in housing that does not align with their gender. This issue disproportionately impacts transgender women⁶. Mayor Adams is silent Intro 0152 would help to address it by creating a taskforce to address the nuanced issues they experience.

³ [City Jails No Longer Announcing Deaths Behind Bars, Angering Watchdogs](#)

⁴ [New York Finds Harassment & Mistreatment Fuels Mistrust Among LGBTQ People Towards Police](#)

⁵ [As Department of Correction Lessens Protections for Lgbtq+ Individuals In Custody, Public Advocate Pushes Accountability Bill](#)

⁶ [First Report of the Task Force on Issues Faced by TGNCNBI People in Custody](#)

Detained persons under the supervision of the Department of Correction should be able attain gender-affirming, lifesaving materials and procedures. Intro 1027 would address this need by allowing detained persons to access the items and services they need in order to live as their authentic selves.

People on Rikers Island are not being treated with the dignity and humanity they deserve. The aforementioned bills will address some of the inadequacies with the Department of Correction. It is also our hope that these bills will be the basis upon which a healthier and more equitable Borough Based Jails system will be built.

Thank you again to Chair Nurse and other members of the Criminal Justice committee.



Testimony of
Natalie Fiorenzo
Corrections Specialist
New York County Defender Services

Before the
Committee on Criminal Justice

Intros 151, 152, 206, 412, 420, 423, 625, 735, 1023, 1026, 1027, 1036 & T2024-2469

September 27, 2024

My name is Natalie Fiorenzo and I am a Corrections Specialist at New York County Defender Services (NYCDS). NYCDS is an indigent defense office that every year represents tens of thousands of New Yorkers in Manhattan’s Criminal, Family, and Supreme Courts. The NYCDS Corrections Specialist Team provides a direct channel of communication with and advocacy for our clients who are incarcerated. I am also a member of the TGNCNBI Task Force. When our clients express concerns relating to their health or living conditions in the jails, we intervene and advocate on their behalf to address underlying issues and unmet needs. My testimony today is grounded in our advocacy work for our incarcerated clients. Thank you to Chair Nurse for holding today’s hearing and to all of the Council Members who have sponsored the bills on today’s agenda seeking to expand protections for people in our city jails.

1. Intro 151-2024 (Cabán) - The terms “inmate,” “prisoner,” and “incarcerated individual” and other similar terminology as used therein.

NYCDS strongly supports this legislation. Int. 151 will replace the terms “inmate” and “prisoner,” as well as “incarcerated individual,” with person-first language (PFL) such as

“persons incarcerated” and “persons in custody” throughout the City Charter, the Administrative Code, the Plumbing Code, and the Building Code.

Person-first language is an important step towards minimizing stigma and emphasizing the humanity of people who are incarcerated or who have a criminal conviction. As the Fortune Society explains, “Dehumanizing labels stereotype and marginalize people rather than support them while they rebuild their lives. Individuals with justice system involvement are not defined by their conviction history. The words we use to reference people should reflect their full identities, and acknowledge their capacity to change and grow.”¹

It should go without saying that using person-first language won’t mitigate the harms of our policing and incarceration systems. That being said, this language change to city law is long overdue and we welcome its passage.

2. Intro 152-2024 (Cabán) - Extending the minimum duration of and updating other requirements pertaining to the task force created to address policies related to the treatment and housing of transgender, gender nonconforming, non-binary, and intersex individuals in the custody of the department of correction.

NYCDS strongly supports this legislation. Int. 152 will amend Local Law 145 of 2019, which established a task force to address policies related to the treatment and housing of transgender, gender nonconforming, non-binary, and intersex (TGNCNBI) people in the custody of the NYC Department of Correction, allowing the task force to continue its important work to protect this population.

LGBTQI people are overrepresented at every stage of the criminal legal system. As the Prison Policy Institute notes, “They are arrested, incarcerated, and subjected to community supervision at significantly higher rates than straight and cisgender people. This is especially true for trans people and queer women. And while incarcerated, LGBTQ individuals are subject to particularly inhumane conditions and treatment.”²

The TGNCNBI Task Force was convened by the City Board of Correction in response to legislation signed into law in 2019 after the tragic death of Layleen Polanco and in response to years of advocacy before City Council and the Board of Correction.³ The Task Force and its members identify and address issues faced by transgender, gender non-conforming, non-binary,

¹ The Fortune Society, “Words Matter: Using Humanizing Language,” available at <https://fortunesociety.org/wordsmatter/> (last viewed 9/25/24).

² Alexi Jones, “Visualizing the unequal treatment of LGBTQ people in the criminal justice system,” *Prison Policy Institute*, March 2, 2021, available at <https://www.prisonpolicy.org/blog/2021/03/02/lgbtq/>.

³ New York City Local Law 2019-145, available at <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3923931&GUID=94F7EE69-D9E4-45D2-8A98-A67C055EAE20&Options=ID|Text|&Search=1535>.

and/or intersex people in city custody. Advocate members attend monthly meetings, serve on sub-committees, and prepare reports on conditions and recommendations for TGNCNBI persons in custody. I am a proud member of the TGNCNBI task force. It is imperative that this bill passes to allow us to continue our work advocating for improved conditions for this vulnerable population.

This bill is important in part because it provides concrete reporting requirements for DOC. DOC will not voluntarily share any information that pertains to our TGNCNBI clients - positive or negative. Int. 152 **requires** reporting on changes to rules/policies that impact TGNCNBI detainees, and all instances where TGNCNBI persons are involuntarily moved. We hope the Council will pass this bill in short order.

3. **Int. 206-2024 (Hanif) - Requiring correction officers to carry and administer opioid antagonists while on duty and to receive related training.**

NYCDS strongly supports this legislation. Int. 206 will require DOC to provide annual training to all correction officers on the proper use of opioid antagonists, as well as to individuals who are incarcerated who request it, and mandate that correction officers carry opioid antagonists on their person while on duty. The bill would also mandate that correction officers administer opioid antagonists to individuals that are incarcerated in accordance with the training provided by the department, and would require the department to post a report on the number of correction officers and individuals who are incarcerated that have been trained on administering opioid antagonists, as well as the number of nonfatal overdoses and suspected nonfatal overdose.

New York City must establish a better approach to mitigating drug related harm and overdose in our jails. According to Correctional Health Services, between January 2021 and June 2022, there were at least 431 overdoses or suspected overdoses in city jails.⁴ During that time period, at least seven incarcerated people died from an overdose. Other deaths during those times were suspected overdoses.⁵ Indeed, overdose was the leading cause of death in city jails in 2022 and 2023.

Naloxone (often referred to by the brand name Narcan) has been made available in the jails since at least 2021. In Dec. 2021, CHS launched an initiative to “train on the use of, and make available, naloxone kits to patients in their housing units.” Former Commissioner Molina reported to the Board of Correction in 2023 that his Department was training all correction officers on how to use Narcan, in response to the overdose crisis.

⁴ Courtney Gross, “New data highlights overdose crisis at Rikers,” *NY1*, Aug. 15, 2022, available at <https://ny1.com/nyc/all-boroughs/news/2022/08/15/new-data-highlights-overdose-crisis-at-rikers>.

⁵ *Id.*

Yet it has been clear, time and time again, that when a serious incident happens at Rikers Island, it is typically fellow incarcerated people who are the first to act. Officers are often not on their posts or may not respond to a medical crisis with urgency, which has cost people their lives. Even worse, there have been situations where officers laugh in the face of someone who needs their help, or simply do nothing.⁶ I worked with a client who was taken to Bellevue and prescribed Narcan at the end of his visit. Because Narcan is considered contraband at DOC, this person was denied access to this life-saving prescription, not able to carry it in the jails where it is so needed. Gilberto Garcia, died of overdose in 2022 at AMKC. His brother, Gilson, was in the next cell, and he was the one who administered the Correction Officer's Narcan, even though he had never administered the drug before, and attempted CPR while a CO watched, but Mr. Garcia tragically still passed away.⁷

Suffice to say, providing COs with Narcan and training has been insufficient to address the enormity of this problem, and people continue to die on Rikers Island. If we want to save lives, we must provide incarcerated people, often our first responders, with access to and training in the proper administration of naloxone. For all of these reasons, we urge immediate passage of this bill.

4. Int. 412-2024 (Restler) - Notifying emergency contacts and attorney of record when an individual in custody attempts suicide, is hospitalized, or is seriously injured.

NYCDS strongly supports this legislation. This bill would require Correctional Health Services (“CHS”) to solicit authorization from an individual in custody of the Department of Correction to contact their attorney of record and emergency contacts if the individual attempts suicide, is hospitalized, or is seriously injured. Upon request by the individual, CHS would be required to ascertain the individual’s attorney of record in order to obtain the authorization. Additionally, when an incarcerated individual attempts suicide, is hospitalized, or is seriously injured, CHS would be required to notify parties authorized by the individual to receive this information within 1 hour of CHS confirming the suicide attempt, making a determination that hospitalization is necessary, or making a determination that the injury is serious.

In our experience, the lack of notice to a person’s attorney or family members after a medical emergency is problematic at best, heartbreaking at worst. The current state of affairs is that we are not informed and we may not even learn about such a medical emergency, including a suicide

⁶ See, e.g., Jacob Kaye, “AG won’t bring charges against officer who didn’t call for help as detainee died,” *Queens Daily Eagle*, Sept. 23, 2024, available at <https://queenseagle.com/all/2024/9/23/ag-wont-bring-charges-against-officer-who-didnt-call-for-help-as-detainee-died/>.

⁷ Graham Rayman, “Correction staff at Rikers covered up failures in detainee’s overdose death: lawsuit,” *Daily News*, Aug. 19, 2024, available at <https://www.nydailynews.com/2024/08/19/correction-staff-rikers-cover-up-failures-in-detainees-overdose-death-law-suit/>.

attempt, until we receive updated CHS records, or our client tells us, sometimes weeks or months later, sometimes never. Yet if we know about a medical emergency, my team can immediately advocate for health care or a transfer, can go to Rikers Island to perform a wellness check, or can contact a person’s family or friends (with their consent) so that they can receive the support they need to overcome the health emergency, among other interventions.

This bill protects against privacy concerns by allowing people to elect whether or not to authorize family or friends or their attorney in case of an emergency. If a person elects not to do so, then we would not be contacted. But in our experience, more often than not, people want comfort and support during and after a health emergency. This reform is long overdue.

5. Int. 420-2024 (Rivera) - Establishing a program for child visitors of department of correction facilities.

NYCDS strongly supports this legislation, with the suggestions recommended by the Osborne Association in their testimony. This bill would require DOC to establish a child visitor program for the purpose of improving the experience of child visitors of Department facilities, and would require annual reporting on the status of the program.

The City must do better to facilitate visitation between incarcerated people and their child family members. According to the Osborne Association:

“A parent’s incarceration has been deemed an *Adverse Childhood Experience*, along with other adversities that work cumulatively to threaten or limit a child’s growth, health, achievement, and lifespan. Yet certain factors can protect against poor outcomes, such as in-person visits, letters, and phone calls—all of which are made difficult by distance or expense. The benefits of strong ties for children and families continue after the parent’s release.”⁸

Yet family visits with loved ones on Rikers remain extremely challenging to navigate and take hours, if not an entire day. Most families will take multiple buses or forms of transportation and may be required to wait outside in the heat, rain, or snow for extended periods of time.

Also, the visiting facilities vary widely across facilities. Earlier this year, the Rose M. Singer Center introduced a new “kid-friendly visitation room” designed by the Children’s Museum of Manhattan.⁹ Yet such spaces are not available in almost all other jail facilities on the island.

⁸ Osborne Association, “Our Advocacy: Children and Families,” available at <https://www.osborneny.org/our-advocacy/children-families>.

⁹ “NYC Rikers Island jail gets a kid-friendly visitation room ahead of Mother’s Day,” *Associated Press*, May 15, 2024, available at <https://www.cbs42.com/news/national/ap-nycs-rikers-island-jail-gets-a-kid-friendly-visitation-room-ahead-of-mothers-day/>.

We urge the sponsor to be in conversation with experts on this issue like Osborne Association, among others, to ensure that any final bill represents best practices for facilitating visits between incarcerated parents and their children.

Finally, while we strongly support the intention behind this bill and the changes that Osborne Association proposed in their testimony, we firmly believe the City Council should be doing everything in its power to close Rikers Island and all the inhumanity that comes with it.

6. Int. 423-2024 (Rivera) - Procedures following the death of an individual in custody of the department of correction and a report on compassionate release.

NYCDS supports this proposal in concept, with reservations about specific language. This bill will establish procedures for the Department of Correction (DOC), Correctional Health Services (CHS), and the Board of Correction (BOC) to follow after an individual dies in DOC custody. DOC would be required to notify the Office of the Chief Medical Examiner, the deceased’s defense attorney, BOC, and the public. DOC would be required to provide all relevant records to BOC for investigation. DOC, CHS, and BOC would be required to investigate every death and issue reports. DOC and CHS would be required to respond immediately, and regularly, with updates as to the feasibility and progress of implementing recommendations contained in reports from BOC and the Department of Investigation. DOC would be required to provide regular updates on the status of any staff misconduct cases related to the circumstances that contributed to an individual’s death. This bill would also establish a Jail Death Review Board to examine systemic issues that contributed to deaths in custody. DOC would also be required to report on “compassionate releases”, a term and process used unspeakably to relieve DOC from culpability and data reporting requirements on certain deaths in custody.

The fact that this bill is necessary, and that every year people continue to die on Rikers, is unconscionable. We urge the City Council to support federal receivership of city jails so that we can finally start to dismantle the human rights disaster that is Rikers Island. No one is safe there, and while closing Rikers in the next few years is absolutely critical, if the same DOC is allowed to run the new facilities, deaths will continue to occur.

That being said, this bill addresses a specific need. The Department of Correction’s failure to notify, in a timely manner, family members, defense counsel, the Board of Correction and the public more broadly following a death on Rikers is unethical. Last year, one of our client’s died while incarcerated on Rikers Island. His death was only reported by the federal monitor weeks after his death. Then-Commissioner Molina reported to the BOC that he only reported deaths as a courtesy, but he was not required to do so. ***This absolutely must change.*** Our clients’ families deserve the bare minimum courtesy of being informed in a timely manner that their loved one

has passed away. They should be informed within hours, if not minutes, by officials who are able to share details about the circumstances of their death. Instead, we still don't know the cause of death or circumstances of those deaths months if not years later. This is indefensible.

Like other public defenders, we share concerns about the public sharing of privileged medical information. For example, a person's private medical history may not be information that they or their family would be comfortable sharing with the world. Those decisions must be made deliberately and on an individual basis by the family, not by government agencies.

For that reason, we urge the sponsor, Council Member Rivera, to consider amending the bill to reflect the sensitive nature of these cases and ensure that the family is notified before any information is made public.

We would be happy to work with the sponsor and other stakeholders to provide specific amendments and language to achieve this goal. For example, we suggest that the reporting by the BOC should be anonymous, at the request of the family. We also believe that, while DOC should be able to notify next of kin within 72 hours, and where such information is available should do so as soon as practicable, we recognize that there may be instances where 72 hours is not sufficient time to locate someone's next of kin. There should also be an ongoing reporting requirement if the DOC remains unable to implement any part of this statute, explaining the impediments to reporting.

We would also suggest the following amendment (see bill text p. 1, lines 7-8) to say:

...but no later than 10 days after such death, the board shall publish on its website a preliminary report. Such report ~~must~~ *may* include *the following information, with permission from the deceased person's next of kin:*

Such a proposed change is not without precedent. For example, when we FOIL death reports for our incarcerated clients, most of this information is redacted. While it is important for the DOC to be required to share this information first with families and then, in short order, with the BOC, there should be sensitivity around what the BOC publishes to the general public and those decisions should be made in consultation with the deceased person's next of kin. We have fewer concerns about an annual report from BOC addressing any deaths that occurred in a single year and speaking about aggregate trends, rather than specific private information about an individual.

We hope that such conversations can happen quickly so that we can finally pass this bill and require DOC to act with a little bit of humanity and compassion towards those who tragically and unnecessarily die in their custody.

7. Int. 625-2024 (Powers) - Housing decisions for transgender, gender nonconforming, non-binary and intersex individuals.

NYCDS strongly supports this legislation. This bill would require the Department of Correction to give dignity to an individual’s gender identity, by putting the burden of proving “a risk of danger” on DOC, rather than on a TGNCNBI individual to “prove their gender”. This bill also would take into account an individual’s risk of sexual victimization at intake and when transferred between facilities. Furthermore, it would also create a more transparent and unbiased appeals process for transgender, gender non-conforming, non-binary, and intersex individuals whose gender-based housing request is denied or revoked. Finally, the bill would also empower the Board of Correction to issue opinions regarding appeals of housing requests related to gender identity.

As I reported to this committee back in 2023, in my experience speaking with our transgender women clients, 100% of them who are housed in a male facility were assaulted either physically, sexually, or both. One of our clients explained to me how she informed officers at the police station, courtroom staff, and DOC that she is a trans woman and needs to be placed at Rosie’s to be safe, yet was still placed in a male facility. Clearly, the current procedures in place to facilitate gender-appropriate placement are failing dramatically to keep our LGBTQIA+ clients safe. Male facilities are not safe and are not a viable option for anyone who says they need to be housed at a female facility. Housing detainees according to their gender identity is the only way to prevent attacks on TGNCNBI people in custody from happening going forward.

Moreover, we urge the City Council to pass Intro 625 for the simple, obvious fact that the existing policy for housing TGNCNBI persons on Rikers is illegal, as it is not in alignment with New York State and New York City’s own Human Rights Law granting self-determination of safe housing for all. The current policy is clear discrimination based on gender identity or sexual preference. Our TGNCNBI clients are being treated entirely differently than cisgender women, who would never be placed in a male facility for any reason.

8. Int. 735-2024 (Stevens) - Requiring the department of correction to report on physical violence against and sexual harassment of correctional staff and ensure that staff have access to mental health treatment resources.

NYCDS opposes this bill because we believe it is redundant. This bill would require the Commissioner of Correction to report annually on alleged incidents of physical violence against and sexual harassment of Department of Correction (DOC) and Correctional Health Services (CHS) staff by incarcerated individuals or other staff that occurred in the previous year. The Commissioner would also be required to report annually on DOC’s investigations of these incidents. Additionally, the Commissioner would be required to review the information collected

and report annually on any updates made to DOC's policies concerning physical violence against and sexual harassment of staff. The Commissioner would be required to submit the reports to the Mayor, Speaker of the Council, and Board of Correction and post the reports on DOC's website. This bill would also require the Commissioner to ensure that staff have access to mental health treatment resources, and to publicize resource availability to staff.

NYCDS strongly believes that no person on Rikers, including corrections officers or other staff, should be subject to physical violence or sexual assault. In instances where such violence occurs, staff should be entitled to time off to recover physically and to receive mental health assistance.

However, we believe much of the protocols outlined in this bill duplicate existing requirements under federal law, which, in fact, DOC has already struggled to adhere to. In 2003, Congress passed the Prison Rape Elimination Act (PREA), which require correction officials to immediately investigate allegations against current guards. Yet there is substantial evidence to support what many of us know, that PREA is rarely enforced in city jails.¹⁰ Professor Betsy Ginsberg of Cardozo Law School was recently quoted as saying, "Unless the state Legislature decides they want to put some consequences of failure to comply with PREA, there isn't really a consequence for local jails."¹¹ We fear the same would be true for this bill, as well.

Instead, we urge the City Council to focus on advancing the cause of federal receivership of our jails, closing down Rikers, and putting new systems in place in those new jails to prevent the ability of people to commit harm against others outside of the view of cameras or other protections.

9. Int. 1023-2024 (Gutiérrez) - Requiring the DOC to establish, operate and maintain an online scheduling system to facilitate visits to incarcerated individuals.

NYCDS has concerns about this bill. This bill would require DOC to create and maintain an online scheduling system to facilitate visits to incarcerated individuals.

NYCDS has serious doubts about the feasibility of such a system - both based on practical logistical concerns and the technological capability of DOC. In addition, we worry that the system might inadvertently lead to more missed visits by excluding those who did not successfully navigate the online system in advance.

First, we are highly skeptical of DOC's ability to design and operate a complex online scheduling system. DOC has notoriously avoided technological innovation for decades, and Rikers Island

¹⁰ See, e.g., Jessy Edwards, "Women accused these jail guards of sexual assault. The men still work at Rikers.," *Gothamist*, Sept. 3, 2024, available at <https://gothamist.com/news/women-accused-these-jail-guards-of-sexual-assault-they-still-work-at-rikers>.

¹¹ *Id.*

still maintains most of its operations by pen and paper. For example, in 2018, after years of [widespread complaints](#) about NYC's rudimentary, inordinately complex, and highly inefficient bail payment mechanisms, [then-Mayor De Blasio introduced an online bail payment system](#). The online bail posting website was plagued by glitches in the years that followed, and last year, the DOC discontinued the online system altogether. Thus, while we encourage every effort to bring DOC's technology infrastructure into the 21st century, we are dubious that DOC can functionally implement and operate such a complex online system, especially for such an important process as family visitation.

Finally, we must point out reasons that an online system would be exclusionary. Some visitors who are not tech-savvy might have trouble navigating the online scheduling system, as we have seen in the context of the online videoconference scheduling system. An online system also assumes access to a computer or smart phone, and that is not always the case. We worry that these individuals, or anyone who encounters technical difficulties, will be precluded from traveling to the facility to meet their loved one because they did not successfully sign up online.

The current procedure to visit a loved one on Rikers is dehumanizing, exhausting, and frankly dangerous as it expects families to wait outside for hours, unprotected from extreme heat or cold. Changing this will require robust, thoughtful legislation, and NYCDS welcomes the opportunity to discuss further with the council.

10. Int. 1026-2024 (Hudson) - Quarterly reporting regarding the visitation of incarcerated individuals and requiring the DOC to record interactions in which an individual is informed about a visitor and refuses to attend the visit.

NYCDS supports this bill. This bill would require DOC to report separately on in-person and tele-visits and provide more detailed reporting on the reasons jail visits are not completed. The bill would also require the Department of Correction to record interactions in which a person in custody is informed about a visitor and refuses to attend the visit and, upon request, provide those video recordings to defense attorneys.

For years, our organization has encountered major issues with counsel visits, and we routinely hear even more maddening stories from our clients' families who attempt to visit their loved ones. As we note above, the entire visitation process at Rikers - for legal representatives and family alike - embodies the supreme level of bureaucratic dysfunction, baffling inefficiency, and the special brand of casual cruelty that is endemic to our jail system. We support any measure to bring transparency, and hopefully, accountability to the visitation system, but we urge the council to go further and propose a larger systemic overhaul of the visitation process at Rikers Island.

11. Int. 1027-2024 (Hudson) - Requiring that people in the custody and staff of the DOC have access to gender-affirming items and medical devices.

NYCDS strongly supports this bill. This bill would establish a process for people in custody to obtain wigs, hair extensions, chest binders, tucking undergarments or gaffs, prosthetics, or other similar items or medical devices that are used by individuals to affirm their self-determined gender identity. The bill also requires DOC staff to have access to gender-affirming items or medical devices while at work.

For individuals who identify as transgender, these devices are essential life-saving items, as vital to the health and dignity of these individuals as toilet paper and shoes. We understand that some DOC staff are resistant to more freely providing access to these items, claiming without basis that these devices will be co-opted for nefarious use. But we fail to identify any rational, founded basis for their objection.

First, COBA claims that these items will be used to hide contraband. This claim is completely unfounded and, in fact, contrary to the [many reports](#) widely confirming that contraband found on Rikers is largely trafficked into the facilities by *DOC staff*. More specifically, investigators have identified cargo pants worn by uniformed DOC personnel as the primary vehicle for sneaking in drugs and weapons to DOC facilities. And yet, recently, [COBA roundly rejected](#) an effort to ban the use of cargo pants by uniformed staff. If COBA were seriously concerned about the way that clothing items and accessories could potentially conceal contraband, they would have supported this simple measure to discontinue a documented vehicle for drug/weapon trafficking.

Second, COBA claims, bafflingly, that offering these items will “[leave the Department liable to sexual assault allegations](#).” First, we can confirm that individuals in custody who identify as transgender have suffered a longstanding and [extensively documented](#) pattern of sexual assault and violence at the hands of DOC staff. However, we fail to understand how gender-affirming care will lead to *more* allegations of sexual assault, or why COBA, in anticipating this increase, would not focus inward in rooting out systemic violence, sexual assault, and transphobia within its ranks.

The DOC representatives on the task force have been fighting against permitting gender-affirming devices tooth and nail. Even though binders were recently put into their directive as a required item (no different than socks or a t-shirt), the department refused to use their budget to pay for them; instead soliciting donations to provide this mandatory item. Wigs have also been a very contentious issue. DOC representatives have claimed time and time again that wigs are not allowed for persons in custody under any circumstances, and that this is a consistent policy across many correctional institutions. [However, the Code of Federal](#)

[Regulations that the Department of Justice and Bureau of Prisons is bound by, allows for wigs as approved by a warden.](#)

12. Int. 1036-2024 (Nurse) - Requiring the DOC to provide reports regarding people in custody who have been ordered to undergo a mental health examination.

NYCDS supports this legislation. This bill would require DOC to issue quarterly public reports on people in custody who have been ordered to undergo a mental health evaluation pursuant to CPL 730.

We note that DOC clearly has the capability to assemble and publish this important information, as these quarterly reports were posted [online](#) from 2019-2022. During this period, NYCDS referred to these reports to give our staff and impacted clients estimated wait times, which at this moment are typically between 4 and 6 months. In addition, our organization and many others used this reporting in its advocacy for improved 730 procedures in our city and state advocacy.

13. Int. 1061-2024 (Louis) - Department of correction report on sexual abuse.

NYCDS supports this legislation. This bill would amend the Department of Correction's semi-annual reports on alleged incidents and investigations of sexual harassment and abuse to require a unique identification number for each alleged incident, a unique identification number for each alleged victim, and a data dictionary for each report.

This bill makes common-sense changes to an existing law related to semi-annual reporting by the DOC on sexual abuse. For example, the DOC would be required to include a table in which each row references an alleged incident indicated by a unique identification number.

If you have any questions about my testimony, please email policy@nycds.org.

City Council Testimony for 9/27/24

My name is Zakya Warkeno. I'm a social worker at Bronx Defenders.

We thank the City Council for holding this hearing on the suite of bills that were discussed on Friday September 27, 2024. Bronx Defenders would particularly like to uplift and show support for Intro. 206, Intro. 412, Intro. 423, and Intro. 625. These bills are necessary and further the efforts to achieve meaningful oversight of the DOC, while we collectively move towards Closing Rikers down once and for all.

It is egregious that so many people have lost their lives in the "care" of the Department of Corrections, particularly during this current mayoral administration.

Intro. 206 can save lives, as it would require correction officers to carry and administer opioid antagonists while on duty and to receive related training. This piece of legislation could have saved Elijah Muhammad. Earlier this week, [Gothamist published an article](#) detailing the inactions of correctional staff in the moments leading up to Elijah Muhammed's death, who was detained at Rikers in 2022. The article explains that the former correction officer watched as Elijah Muhammad was in distress for hours, rendering no aid to him and he died from "acute fentanyl intoxication", as noted from the article. I mention Mr. Muhammad for the recent publication, but as the City Council and the many advocates who have participated in this hearing know, there are many others who have died. 206 writes humanitarian response and tools into DOC's protocol. DOC officers only follow orders; if it is not written they don't do it. And it's sad that also applied to not saving someone's life. When officers are on duty and in uniform, intuition and the capacity to respond based on one's humanity dissolve. Intro. 206 quite literally is legislation that can save lives.

Bronx Defenders also supports Intro 412, that would have CHS notify emergency contacts and attorney of record when an individual in custody attempts suicide, is hospitalized, or is seriously injured. When a person we represent expresses thoughts of self-harm or suicidal ideation, our advocates reach out directly to CHS Patient Relations or CHS Operations to get that person support. Intro 412 would allow for there to be more of a two-way street in communication and collaboration between CHS and a person's advocates. This type of clinical court advocacy is important because our clients' physical and mental health directly impacts their participation in their own defense through the court process. It

fosters and bolsters a village of support for an individual who may be in crisis while in Rikers.

We support Intro. 423, the bill that lends procedures following the death of an individual in DOC custody and a report on compassionate release. This is the bare minimum that should happen. 423 gives much needed visibility on loss of life. DOC should not be allowed to hide what happens to people in their custody.

And Bronx Defenders supports Intro 625 that requires DOC to appropriately house our TGNCNBI community members and allows for an appeals process for appropriate housing. We have seen many of our clients harmed by not being housed according to their gender identity. They have undergone sexual and psychological violence from both correction officers and other persons in custody, further exacerbating the trauma of incarceration. 625 signals that this issue is being taken seriously and uplifts the need for care and protection of a vulnerable population.

When DOC and CHS are in charge of the care of our community members in custody, they absolutely should be trained to respond to crisis and be obligated to communicate with their loved ones and advocates. This legislation is urgent. These bills will increase safety for EVERYONE at Rikers Island, and they will help foster compassion and accountability, and most important, they will save lives.

If there are questions you would like us to answer, please reach out to zwarkeno@bronxdefenders.org. Thank you for your time!



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TESTIMONY OF:

Lucas Marquez, Director, Civil Rights & Law Reform

BROOKLYN DEFENDER SERVICES

Presented before

The New York City Council

Committee on Criminal Justice

September 27, 2024

My name is Lucas Marquez, and I am the director of Civil Rights & Law Reform at Brooklyn Defender Services (“BDS”). BDS is a public defense office whose mission is to provide outstanding representation and advocacy free of cost to people facing loss of freedom, family separation and other serious legal harms by the government. For over 25 years, BDS has worked, in and out of court, to protect and uphold the rights of people and to change laws and systems that perpetuate injustice and inequality. We want to thank the Committee on Criminal Justice and Chair Nurse for inviting us to testify on a variety of bills that will impact the thousands of people held in the custody of the New York City Department of Correction, including many represented by BDS.

BDS represents approximately 22,000 people each year who are accused of a crime, facing the removal of their children to the foster system, or challenging deportation. Our staff consists of specialized attorneys, social workers, investigators, paralegals, and administrative staff who are experts in their individual fields. BDS also provides a wide range of additional services for our clients, including civil legal advocacy, assistance with educational needs of our clients or their children, housing, and benefits advocacy, as well as immigration advice and representation.

We appreciate the City Council’s commitment to holding the Department of Correction (the “Department” or “DOC”) accountable and ensuring DOC treats the people in its custody humanely and prioritizes their safety and mental health.

TGNCNBI People in DOC Custody Continue to Face Dangerous and Dehumanizing Conditions

For years, impacted people have been raising alarm of the dangers for transgender people in NYC jails. BDS is a member of the Transgender, Gender Non-Conforming, Non-Binary, and Intersex (“TGNCNBI”) Task Force (“the Task Force”) and we testified before this Committee in

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support of the Task Force’s 2022 Report.¹ At that time, we urged the Department to engage with the Task Force and to consider those recommendations made in its Report.

At this Committee’s joint hearing with the Committee on Women and Gender Equity in January 2023, we urged action to address “[d]eep-rooted systems of violence, discrimination, and inaccessible medical care that TGNCNBI people face ... in the criminal legal system and jail environment,” and detailed some of the many ways that the TGNCNBI people that BDS represents have suffered, including by sexual abuse, suicide attempts, mental health deterioration, and medical care, and being forced to hide their true selves for safety. We also noted that these harms are in addition to the inhumane conditions faced by all people in DOC custody. We referred to testimony previously submitted to the Committee on Criminal Justice by BDS on May 1, 2019, and on April 27, 2021, where we provided detailed accounts of transgender women represented by BDS who faced harassment and assault when housed in men’s facilities due to the Department’s convoluted and punitive process for requesting housing alternatives.²

I. Intro 625-2024 Will Save Lives by Appropriately Housing TGNCNBI People

In our 2023 testimony, we highlighted the longstanding problems associated with outmoded jail administration policies that failed to place people in gender-aligned housing, or that removed people from such housing as a disciplinary sanction.³ Specifically, we urged the Department to house people aligned with their gender unless those people believe they would be safer elsewhere, and to forbid the practice of removing people from such housing as a part of disciplinary action. The Department was, and remains, uncooperative and unresponsive.⁴ We continue to speak with transgender women we represent who are denied or transferred out of gender aligned housing, and are struggling to navigate the Department’s opaque TGNCNBI housing process.

¹ *First Report of the Task Force on Issues Faced by TGNCNBI People in Custody* (hereinafter “the Report” or “Task Force Report”), by Ashe McGovern, Deborah Lolai, Dori Lewis, Kandra Clark, Mik Kinkead, and Shéar Avory, Aug. 15, 2022.

² See “BDS Testimony before the New York City Council on Criminal Justice and Committee on Women and Gender Equity on Women’s Experiences in City Jails,” Apr. 27, 2021, <https://bds.org/latest/bds-testimony-before-the-new-york-city-council-on-criminal-justice-and-committee-on-women-and-gender-equity-on-womens-experiences-in-city-jails>.

³ BDS Testimony before The New York City Council Committees on Criminal Justice and Women & Gender Equity regarding TGNCNBI Individuals in Rikers,” Jan. 25, 2023, <https://bds.org/latest/bds-testimony-before-the-new-york-city-council-committees-on-criminal-justice-and-women-gender-equity-regarding-tgncnbi-individuals-in-rikers>.

⁴ See, e.g., The Department has continuing failure to update its 2019 Directive 4498R-A (“Lesbian, Gay, Bisexual, Transgender, Intersex, Gender Non-Binary and Gender Non-Conforming Inmates”), which contains Departmental policies for how TGNCNBI people in custody must request gender-aligned housing and appeal adverse determinations.



Intro 625 is necessary and crucial to ensure the safety and humanity of people in custody, and to bring the Department in compliance with New York law. There remains a lack of transparency around the housing application process, and the Department's arbitrary determinations that look at "safety" above all else, fail to ensure due process. In fact, many times those determinations hinder the safety of transgender women placed in male facilities who are subject to physical danger and assault, and exacerbate mental health issues.

Intro 625 critically addresses the Department's failings and adopts several of the Task Force's recommendations, including: 1) affording people the opportunity to self-identify as TGNCNBI confidentially; 2) requiring the Department to presumptively respect people's gender identity in making housing assignment decisions; and 3) explicitly prohibiting Department staff from basing any decision to deny someone housing in accordance with their gender identity on any personal appraisals of a TGNCNBI person's appearance or other irrelevant factors.

In its testimony before this Committee, the Department asserted that it was a model for the nation on transgender housing issues, which is simply not the case. If the Department was interested in cooperating with the Task Force and learning from TGNCNBI experts and impacted people, it could be at the forefront. In actuality, the Department's recalcitrance on TGNCNBI issues means that New York City is not aligned with recent federal court decisions on the housing of TGNCNBI individuals,⁵ is trailing behind *at least* 17 New York State counties, six states, and Washington D.C., as well as three other countries, *and* is not in compliance with New York State or City human rights law.

We strongly support Intro 625 because it will address the critical need for Departmental policies that respect TGNCNBI's actual gender and lived reality, provide for their safety, and avoid the needless and grave risks associated with improperly housing TGNCNBI people.

II. Intro 1027-2024: Dignity for TGNCNBI People

Intro 1027-2024 will require that CHS establish, and the Department facilitate, a process for TGNCNBI people to confidentially request and then gain access to items that they use to affirm their self-determined gender identity and others that are medically necessary. Critically, for situations when access to such items is denied or revoked, the bill also provides due process protections including appeals to the Board of Correction.

We strongly support Intro 1027 because it will allow our TGNCNBI clients to live safely and with dignity.

III. Intro 152-2024 is Necessary to Ensure the Task Force has the Data, Cooperation, and Support

⁵ City Broome and Steuben county lawsuits; *see also* <https://www.nyclu.org/press-release/letter-ny-sheriffs-urges-immediate-adoption-model-jail-policies-lawful-treatment>.



Critically, to ensure the Department implements Intros 625 and 1027 as intended to protect trans, nonbinary, and intersex people, the TGNCNBI Task Force must have additional mandate and support as outlined. At the January 2023 hearing, BDS joined other defender organizations and advocacy groups in calling for the Department to change its approach to the Task Force. That approach, as we noted at the time, was defined by recalcitrance, including efforts to thwart the Task Force’s ability to investigate conditions in the jails and generally to override its mandate.⁶

Intro 152-2024 will require the Department and Correctional Health Services (“CHS”) to participate in each meeting of the Task Force, to present information and data that is responsive to questions submitted to them by the members of the Task Force, and to update the Task Force on any changes to Department rules or policies related to treatment or housing of TGNCNBI people in custody, as well as any instance when a TGNCNBI person was involuntarily moved from one housing unit to another.

We strongly support Intro 152 which will empower the Task Force to accomplish the Council-identified goals to assist in making meaningful difference for the increasing number of TGNCNBI people in DOC custody. As the rights and humanity of transgender and nonbinary people are being attacked for political points across the country, it is even more crucial to pass these three bills.

Other Legislation Under Consideration

I. Intro 412 and Intro 423: Notification of Hospitalizations and Death or Compassionate Release

BDS supports the intention behind both Intro 412 and Intro 423. We are aware that too often families learn from reporters, social media, or people in custody that their loved one has been seriously injured or died in jail. We welcome the opportunity to meet with the sponsors to discuss amendments that would allow for both public accountability and protecting the sensitive and private information of people in custody and their families as they heal and grieve.

II. Intro 1036-2024: 730 Exams and Placements

BDS supports the Council’s intention, with Intro 1036-2024, to address the problem of significant delays in completing court-ordered mental health examinations and transferring people to appropriate psychiatric hospitals pursuant to Article 730 of the New York Criminal Procedure Law. While the Department must be held accountable for failing to timely and consistently produce people for their court-ordered 730 exams, the protection of private health information of incarcerated New Yorkers is paramount. Furthermore, holistic solutions for this

⁶ “BDS Testimony before The New York City Council Committees on Criminal Justice and Women & Gender Equity regarding TGNCNBI Individuals in Rikers,” Jan. 25, 2023, <https://bds.org/latest/bds-testimony-before-the-new-york-city-council-committees-on-criminal-justice-and-women-gender-equity-regarding-tgncnbi-individuals-in-rikers>.



problem should also hold accountable the New York State Office of Court Administration (OCA), the New York State Office for People with Developmental Disabilities (OPWDD), or the New York State Office of Mental Health (OMH).

BDS looks forward to continuing to work closely with the Council to address the problem of delays in 730 examinations and placements, and to continuing to support state level reforms in this area.

III. Additional Bills

BDS supports: (a) Intro 151-2024, replacing certain existing legislative language with “person-first language”; and (b) Intro 206-2024, requiring the provision of opioid antagonists like Narcan to all correction officers, along with training on its proper use, and BDS further supports the expansion of training on and access to such opioid antagonists to people in Departmental custody and non-uniformed staff.

BDS looks forward to continued collaboration with the Council and other advocates to address any outstanding concerns. If you have any questions, please feel free to reach out to us. I can be reached at smarquez@bds.org.



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New York City Council
Criminal Justice Committee
September 27, 2024

Testimony of Gina Mitchell – Attorney-in-Charge of Policy and Law
Reform at Queens Defenders

Good morning, Chairperson Nurse, and members of the New York City Council Criminal Justice Committee. Thank you for the opportunity to submit testimony regarding the introduction of Local Laws that are before the Committee for consideration, particularly **Intro 423** and **Intro 412**. We thank the Committee for holding this Hearing and we urge the swift introduction of these laws.

Queens Defenders is a Public Defender organization in Queens, New York. Since, 1996, our lawyers have helped over 450,000 people in cases involving homicides and major trials, in treatment courts, domestic violence, housing, youth felony parts and immigrants charged with criminal offenses. We have legal offices in Kew Gardens, Jamaica and we operate our Rockaway Community Justice Center (RCJC). The RCJC works with the office of Queens District Attorney Melinda Katz and community-based organizations, police, elected officials, civic leaders, and residents to provide alternative and restorative justice-based solutions to crime.

The proposed laws – **Intro 423** and **Intro 412** – are not calling for novel or progressive law reform. They are simply about protecting the bare minimum



standard of care that should be implemented by the City under Mayor Eric Adams' Administration and the Department of Corrections (“DOC”); and ensuring there are satisfactory processes in place if those standards of care are breached.

a) Why is Queens Defenders joining the call for these laws to be introduced?

Transparency and accountability are two of the most important pillars of a society that ensures justice and safety for all of its members. New York City jails, in particular Rikers Island, have been plagued with violence for decades. At present, there are major gaps in the law to ensure that there is transparency about the circumstances of death or serious injury of those held in DOC custody. Moreover, there is a lack of accountability as New York continues to accept qualified immunity for public officers. We commend the City Council for passing legislation in 2021 that limited qualified immunity,¹ but we note that it does not extend to correctional officers. This is an oversight that the proposed State **Jackson-Hunter Bill to End Qualified Immunity (S182/A710)** would correct. We invite the City Council and the members of the Criminal Justice Committee to support the passage of the State bill in the 2025 legislative session.

The horror that is the NYC jails system is clear. In the *Nunez* Federal Monitor October 2023 Report, it is stated that there are “high levels of

¹ Int. 2220-A (enacted 4/25/2021); *see also*, New York City Council, Press Release: Council Votes To End Qualified Immunity and Seven Other Measures to Reform NYPD, March 25, 2021 <<https://council.nyc.gov/press/2021/03/25/2079/>> (accessed 9/26/24).



violence and fear among people in custody and staff remain a fact of living in every facility.”² Moreover, at Rikers specifically, “all security and violence indicators remain alarmingly elevated, reflect significant dysfunction and result in a high risk of harm to staff and incarcerated individuals.”³ This violent environment is deadly: 33 people have died in or immediately after release from DOC custody since 2023. Moreover, reports of serious injuries are commonplace. The *Nunez* Federal Monitor’s April and October 2023 Reports indicate there are incredibly high instances of violence, including: excessive use of force; slashing/stabbings; fights; serious injuries; self-injurious behavior and fires.⁴ There are also concerning reports of frequent medical emergencies and of incarcerated individuals receiving Narcan.⁵

As Public Defenders, we bear witness to who are remanded in NYC jails and prisons. They are some of our community’s most vulnerable members. 90% of those detained at Rikers are Black or Latinx. Over half of the current population is flagged for mental health concerns. Many are remanded simply because they are unhoused or can’t make bail.

The problem doesn’t begin nor end with Rikers – and it will not be fixed by simply closing Rikers. The entire NYC jails network and the DOC culture is

² See, *Nunez* Federal Monitor Report, October 5, 2023. Page 4. <<https://tillidgroup.com/wp-content/uploads/2023/10/2023-10-05-Monitors-Report.pdf>> (accessed 9/26/24); See also, *Nunez* Federal Monitor Report, April 3, 2023 < <https://tillidgroup.com/wp-content/uploads/2023/04/2023-04-03-Status-Report-of-Action-Plan.pdf>> (accessed 9/26/24).

³ *Id.*

⁴ *Id.*

⁵ *Id.*



plagued with violence. Alarming, our youth detention centers, where some of our most vulnerable clients are housed, have also seen an increase in violence and unacceptable conditions. NYC has two detention centers – Crossroads Juvenile Center in Brownsville and Horizon Juvenile Center in the South Bronx. Both facilities are run by the Administration of Children’s Services and house approximately 200 children and young people aged between 12 and 21. In the Federal Monitor’s Third Report on the Conditions of Confinement for 16-and 17-year-old Adolescent Offenders at the Horizon Juvenile Center, it was stated that “[t]he Monitoring Team’s overarching concern is the level of violence and the substantial risk of harm for both youth and staff at Horizon.”⁶ In June 2022, nearly 60% of the youth had been in custody for more than 200 days. The Monitoring Team noted that the combination of the serious charges, long length of stays and often hostile pre-existing relationships with other youth in custody are underlying factors in the high rates of violence witnessed at the facility.”⁷ Moreover, there are documented instances wherein staff were “hyper-confrontational” and used “likely unnecessary and excessive force (including staff striking and kicking a youth.)”⁸

The DOC are entrusted to care for those in their custody. It is of significant concern that the *Nunez* Federal Monitor’s April and October 2023 Reports, as well as the Federal Monitor’s Third Report on the Conditions of

⁶ See, Monitor’s Third Report on the Conditions of Confinement for 16- and 17-Year-Old Adolescent Offenders at the Horizon Juvenile Center, page 4 <<https://tillidgroup.com/wp-content/uploads/2023/02/HOJC-Third-Report-with-Appendix-Final.pdf>> (accessed 9/26/24).

⁷ *Id.* at page 6.

⁸ *Id.* at page 25.



Confinement for 16-and 17-year-old Adolescent Offenders at the Horizon Juvenile Center, mention correctional officer’s *use of excessive force* as a key reason for the current crisis of violence in NYC jails and correctional facilities.⁹ In July and August 2023 alone, there were a total of 31 staff suspensions in response to use of force related misconduct.¹⁰ Moreover, it is noted that “the violence and disorder in the jails makes for poor working conditions for staff, which contributes to vicious cycles of absenteeism and complacency.”¹¹

Despite repeated promises, the Adams administration and the DOC demonstrate a continued lack of commitment to ending the humanitarian crisis by closing Rikers. For example, the fiscal year 2025 City budget saw a severely bloated DOC budget and significant cuts to community investment, which is contrary to the Close Rikers agenda.¹²

b) Intro 423

We support the passage of **Intro 423**, as it would protect the bare minimum standards regarding DOC procedures for notifying family members and the public when someone dies in custody. 33 people have died in custody since 2023. Mayor Adams announced last year that the public would not be

⁹ See, Nunez Federal Monitor Report, October 5, 2023. Page 4. <<https://tillidgroup.com/wp-content/uploads/2023/10/2023-10-05-Monitors-Report.pdf>> (accessed 9/26/24); See also, Nunez Federal Monitor Report, April 2023, Nunez Federal Monitor Report, April 3, 2023 < <https://tillidgroup.com/wp-content/uploads/2023/04/2023-04-03-Status-Report-of-Action-Plan.pdf>> (accessed 9/26/24).

¹⁰ Nunez Federal Monitor Report, October 5, 2023. Page 6. <<https://tillidgroup.com/wp-content/uploads/2023/10/2023-10-05-Monitors-Report.pdf>> (accessed 9/26/24).

¹¹ *Id.* at page 9.

¹² Vera Institute of Justice, “A look inside the FY 2025 DOC Budget,” (February 2024).



notified when someone incarcerated dies.¹³ The DOC chief spokesperson Frank Dwyer stated notifying the media when a person dies in custody “was a practice, not a policy.”¹⁴ Moreover, Federal Monitor Steve Martin said he had to rely on media reports to get the correct facts, including a detainee who had been placed on a ventilator for two weeks and remains paralyzed from the neck down as a result of being injured when correctional officers used excessive force.¹⁵

Intro 423 would ensure that DOC publicly report the names of employees involved in circumstances that contributed to any death in custody; the status of any related staff misconduct cases; the status of their employment; and any misconduct cases against them. Moreover, each death must be reviewed by a Jail Death Review Board to examine systemic issues that contributed to deaths in custody. Finally, DOC would be legislatively required to report on people who died whilst on “compassionate release” (oftentimes such release is to a hospital), and thus whose deaths are not technically counted as deaths in custody.

c) Intro 412

We support the passage of **Intro 412**, which would judicially require notification to emergency contacts or an attorney when an incarcerated

¹³ Reuven Blau, ‘City Jails No Longer Announcing Deaths Behind Bars, Angering Watchdogs,’ THE CITY, May 31, 2023 <<https://www.thecity.nyc/2023/05/31/correction-jails-not-announcing-deaths-rikers/>> (accessed 9/26/24).

¹⁴ *Id.*

¹⁵ Reuven Blau, ‘Secrecy on Severe Jail Injuries Spurs Rikers Monitor to Sound Alarm,’ THE CITY, May 29, 2023, <<https://www.thecity.nyc/2023/05/29/rikers-jail-injuries-secrecy-corrections-monitor/>> (accessed 9/26/24).



individual is seriously injured, hospitalized, or attempts suicide in custody. As it stands, there are currently no laws protecting these processes of basic human decency – a person’s loved ones deserve to be notified when they are seriously injured. As aforementioned, violence plagues NYC jails, which is of particular concern when it is commonly the result of correctional officers employing excessive force. There must be transparent processes by DOC of when correctional officers breach this duty.

d) Other Laws before the Criminal Justice Committee

On June 7 2019, Layleen Xtravaganza Cubilette-Polanco died at Rikers Island while in solitary confinement. The interrelationship of discriminatory social conditions and legal systems of injustice ensures that trans, gender non-conforming, non-binary and Intersex (TGNCNBI) people are at extreme risk of harm when incarcerated:

“Trans, queer, and gender non-conforming people, especially youth of colour and Black trans women, face heightened rates of homelessness, violent victimisation, barriers to housing, employment, and healthcare. These social conditions are tied to heightened engagement in survival sex work, over-policing, and surveillance of their communities. As a result, Trans and queer people are disproportionately impacted by mass incarceration, and must contend with the nexus of a system that functions on racist and colonial legal construction of gender, making carceral spaces sites of (in)visibility and death. The death of Trans people within these carceral spaces are followed by multiple discursive deaths, including the use of dead names in media, misgendering, and transphobic political debate..”ⁱ

Queens Defenders supports the movement led by the Trans Prisoners’ Rights Coalition and their support of **Intro 625**, **Intro 152**, and **Intro 1027**. We



support the passage of such laws to support and protect gender aligned housing for TGNCNBI incarcerated individuals and to ensure that people in custody and staff of the department of correction have access to gender-affirming items and medical devices.

Queens Defenders supports the passage of **Intro 151** which will amend the New York city charter, the administrative code of the city of New York, the New York city plumbing code, and the New York city building code, in relation to the terms “inmate,” “prisoner” and “incarcerated individual” and other similar terminology as used therein. People who are labelled with “crime-first” terms (like offender or felon) are considered to more likely to be viewed as having an increased risk of reoffending¹⁶. Language is power and the use of person first language is essential to ensuring the humanity of persons in the criminal legal system.

Queens Defenders supports the passage of **Intro 1023**. Incarcerated people experience both the immediate trauma and stress of imprisonment as well as the collateral trauma of experiencing separation from families and communities. To the extent that technology can lessen this traumatic burden, we should embrace these solutions to establish, operate and maintain an online scheduling system to facilitate visits to incarcerated people.

¹⁶ Denver, M., Pickett, J.T., & Bushway, S.D. (2017). The language of stigmatization and the mark of violence: Experimental evidence on the social construction and use of criminal record stigma. *Criminology*, 55(3), 664-690. <http://doi.org/10.1111/1745-9125.12145>



Queens Defenders supports the passage of **Intro 1036** which would require the Department of Correction to issue quarterly public reports on people in custody who have been ordered to undergo a mental health evaluation pursuant to Section 730 of the New York City Procedure Law. Many Queens Defenders clients, facing misdemeanor and/or felony charges, are incarcerated while they wait for 730 evaluations. The majority of these clients have diagnosed mental health conditions and they are in need of immediate treatment. There is an urgent need for data gathering and transparency regarding the number of 730 examinations being ordered; the time it takes to conduct an evaluation as well as other key data points. We support the passage of this important legislation.

e) Conclusion

Queens Defenders urges the New York City Council to enact legislative reform aimed at restructuring the woeful situation in NYC jails, particularly at Rikers Island; and ensuring numerous other reforms addressed by each of the amendments discussed herein. Thank you for your time and the opportunity to submit testimony to the City Council Committee on Criminal Justice regarding this matter of significant public interest.

Yours sincerely,

Gina Mitchell

Attorney-in-Charge of Law Reform and Policy, Queens Defenders



ⁱ Montano, N. (2023). Trans death at Rikers Island: sites of (in)visibility and reframing mass incarceration. *Mortality*, 28(2), 284–298. <https://doi.org/10.1080/13576275.2023.2178292>

Vidal Guzman, Executive Director & Founder of America On Trial Inc.

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Testimony of Vidal Guzman for 9.27.24 Criminal Justice Committee hearing-

Good afternoon, I'm Vidal Guzman, Executive Director of America On Trial Inc. (AOT). Our organization is committed to empowering those affected by incarceration and police brutality. We focus on advocating for the rights of incarcerated workers, fair wages, and police accountability. One critical issue we're addressing is the absence of laws requiring notification to emergency contacts or attorneys when someone in DOC custody is seriously injured, hospitalized, or attempts suicide. Too often, families only learn of these incidents days later or from other detainees. This has to change.

My own experience with incarceration underscores the urgency. At 19, while at Ulster Correctional Facility, I would run to the window every morning to watch the sunrise. An elderly man did the same—until one day, he didn't get up. He passed away in his dorm, just days from going home. I wondered if his family was ever informed.

At Greene Correctional Facility, I witnessed another heartbreaking moment. While waiting to see my family, I saw a mother ask a correctional officer why she hadn't heard from her son in over a week. The officer checked and said, "Your son passed away a week ago." The mother broke down in tears, devastated by the lack of notification. This isn't just a problem at Ulster or Albany—it's happening in New York City and across the state. Families deserve to be informed when something happens to their loved ones in custody. That's why we're advocating for the passage of Intro 412, a law that would ensure families are notified promptly. Since 2023, 33 people have died in or immediately after release from DOC custody, including Anthony Jordan, who died on August 20. It's time for change.

Sincerely,

Vidal Guzman

Executive Director, America On Trial Inc.



**New York City Council Committee on Criminal Justice
September 27, 2024 Hearing**

Good morning, I'm Nadia Chait, the Senior Director of Policy & Advocacy at CASES. Thank you to Chair Nurse for the opportunity to testify today. CASES is a nationally recognized leader in the development of innovative programs to address the intersection of unmet mental health needs and criminal legal system involvement. We served over 9,000 New Yorkers last year, of whom nearly 90% identified as Black and/or Latino, consistent with disparities in policing and sentencing. Our programs prevent the harm and trauma of incarceration through pretrial services and alternatives to incarceration (ATI); support achievement of education, employment, health and housing goals; promote mental wellbeing through a range of clinical and case management programs; and improve public safety through community-based solutions.

The Rikers Island jails are a horrifying site where thousands of New Yorkers experience brutality, misery and unjust treatment. The City must take aggressive action to close Rikers, but it's critical to also improve conditions for those currently jailed. We urge the Council to pass Intro 423 and Intro 412 to provide basic transparency when someone is seriously injured or dies while in custody. This is the least that loved ones and the public are owed when DOC fails to maintain safety. We also urge the Council to pass Intro 1036 to increase transparency around 730 examinations.

Intro 423

Tragically and unacceptably, 33 people have died in or immediately after release from DOC custody since 2023. These deaths represent the abject failure of DOC to maintain a safe environment for people in custody. Intro 423 would take important steps to increase transparency around deaths in custody. In particular, it would:

- Require DOC to notify the public
- Create specific procedures for DOC to follow regarding notifying next of kin, including providing them with video footage upon request
- Require DOC to publicly report the names of employees involved in circumstances that contributed to any death in custody, the status of any related staff misconduct case, and the status of their employment and any misconduct cases.
- Institute a set timeline for Board of Corrections (BOC) death investigations, by requiring a preliminary report within 10 days and a final report within 6 months.
 - To do this successfully, the City must also increase funding for BOC so there are sufficient resources available to report on deaths.
- Create a Jail Death Review Board to identify systemic issues that contributed to deaths in custody.

Additionally, the legislation would require DOC to also report on compassionate releases, as DOC appears to be using compassionate release in certain circumstances to avoid responsibility for deaths that DOC actions contributed to. As one instance of this, Charizma Jones, who was just 23 years old, died at Elmhurst Hospital after jail staff repeatedly ignored her request for

medical treatment. Ms. Jones was released from custody shortly before her death, and as a result, her death is not currently counted.

We do recommend one amendment to this bill. The notification of deaths in custody should be delivered to next of kin by chaplains, who have the requisite training to support families through the delivery of such terrible news.

Intro 412

Currently, there are no laws that require notification to emergency contacts or attorneys when a person in DOC custody is seriously injured, hospitalized, or attempts suicide. Family members frequently do not hear about their loved one's injuries until their loved one has returned from the hospital, unless they receive notification from another person in custody. Unfortunately, this is not a rare occurrence, as serious injuries are frequent in DOC custody. In a one-week period in September 2023, the [Nunez Federal Monitor reported](#) "145 uses of force, 12 stabbings/slashings, 74 fights among incarcerated individuals, 48 individuals engaged in self-injurious behavior, 3 medical emergencies, 5 individuals that received Narcan, 15 fires, 34 assaults on staff, and 19 serious injuries were reported." This legislation will address gaps in current law by requiring that DOC notify emergency contacts and defense attorneys when an individual is seriously injured, hospitalized or attempts suicide.

Intro 1036

Many people in custody have mental health challenges, the result of decades of failure by the City and State to provide adequate mental health care and to scale alternatives to incarceration for people with mental illness. Some of these individuals require 730 examinations to determine if they can stand trial, or if they need competency restoration. Unfortunately, individuals often spend significant periods of time incarcerated while they wait to be evaluated. Intro 1036 would require public reporting on 730 examinations, including the average length of time spent in custody. This is an important move to increase transparency.

We urge the Council to quickly pass Intro 423, Intro 412 and Intro 1036.

**Testimony to New York City Council
Committee on Criminal Justice**

Public Hearing on Proposed Legislation

September 27, 2024

Tanya Krupat
VP, Policy & Advocacy
Osborne Association



Thank you, Chair Nurse, and members of the Criminal Justice Committee for the opportunity to provide testimony today. My name is Tanya Krupat and I am a Vice President of Policy and Advocacy at Osborne Association. Osborne is one of the largest and oldest criminal justice service organizations in the state. We serve 10,000 participants and their families each year, assisting them in navigating arrest, courts, incarceration on Rikers and in State prisons, and reentry. We have offices in Harlem, Brooklyn, Buffalo, Newburgh, White Plains, and Troy, with our headquarters in the South Bronx. We advocate for decarceration, we support closing Rikers, and, in the meantime, we advocate for better conditions inside jails for those who live there, work there, and visit there.

We are grateful for the many bills being considered today, all of which advance the safety, dignity, and humanity of those in and affected by DOC custody. My testimony discusses the following bills:

- Int 0151: Person-first language
- Int 0152: Continuing and strengthening the taskforce on the treatment and housing of transgender, non-binary, gender non-conforming and intersex individuals (TGNBNCI) in DOC custody
- Int 423: Death notification bill
- Int 412: Hospitalization, suicide attempts, serious injury notification
- Int 420: Child visiting
- Int 1023: Online visiting scheduling system
- Int 1026: Quarterly visit reporting & recording of refused visits

One of our core values at Osborne is a deep belief in our shared humanity, which includes using humanizing language. **We support Councilmember Caban's Intro 0151**, which advances person-first language. At Osborne, we have humanizing language [resources on our website](#) and a short Words Matter [guide](#). We also [advocate for](#) not using the term "visitation," but using "visits" or "visiting." We were asked to make this switch by young people whose parents are incarcerated and or in foster care. "Visitation" is a term only used by and in systems that separate families. I want to recognize that many DOC staff have recently made this switch and refer to "persons/people in custody."

We also support **Int 0152** to continue the task force addressing the treatment and housing of transgender, non-binary, gender non-conforming, and intersex individuals (TGNCNBI) but with the caveats and context outlined in detail in the testimony of Mik Kinkead from the Legal Aid Society. Osborne participated in the task force from its inception, represented by Grace Detrevarah, and we are committed to continuing but hope that this legislation can strengthen the task force's ability to fulfill its purpose. Towards this end, we recommend re-examining the "voluntary participation," or participate "without compensation," policy of City Council task forces for participants who bring their lived expertise and are not compensated for their time by any organization or professional role.

From our experience, task forces also need a dedicated staff person within the oversight body or agency who can coordinate meetings, stay on top of identified actions, and ensure progress

towards the goal or purpose of the task force. This requires dedicating some resources but is well worth the investment.

We support Intro 423 addressing notification of deaths in custody, and advancing transparency and accountability, with two amendments: 1) as put forth by the Freedom Agenda, that next of kin be notified by chaplaincy staff; and 2) that emergency contacts for those in custody be confirmed and updated (the frequency should be decided with input from those in custody, families, and CHS and DOC staff).

It is heartbreaking and enraging to read the [descriptions of the deaths](#) of the 33 people who have died in or immediately after release from DOC custody since 2022. Many of them were so young and should not have been in jail in the first place, and certainly not for so long (for example, Gilberto Garcia was only 26 years old and was held on Rikers pre-trial almost 3 years until the day of his death). Each one of these people was someone's son or daughter, brother or sister, and all deserved to survive pre-trial detention.

Elijah Muhammad is one of these people, and he is the family member of an Osborne staff member. He died at age 31 under horrific conditions that have been found to be in violation of department rules. He suffered from mental illness and, as a family member said, "he needed professional help, not prison." He is missed deeply by his four young children ages 11 and under; all of them will now grow up without their father. And when they get older and want to understand how their father died, what will their family tell them? How do you explain this to children? How can we expect them to have confidence in our laws and justice system when this happened to their father before his case even went to trial?

I once heard someone share this litmus test for public policy: if you can't explain it to a child in a way that makes sense and seems fair, kind, and just, then something is wrong with the policy. Something is very wrong when we need death and serious injury notification laws for our jails (which we do need).

And so, we also support Intro 412, which addresses a gap in current laws tragically and shamefully needed, by requiring that when a person is seriously injured, hospitalized, or attempts suicide in DOC custody, their emergency contact and defense attorney can be notified if the person in custody has given their approval. Family members deserve to know what is happening to their loved ones in custody, who deserve to be safe but often are not. The reduction of external providers also means there are fewer outside eyes and ears to do well-being checks and assess how people are doing, so this bill is even more important now and in light of the rates of violence that have been shockingly well-documented in the *Nunez* Federal Monitor's reports.

As with Int 423, this bill should be amended to include that emergency contacts for those in custody be confirmed and updated (the frequency should be decided with input from those in custody, families, and CHS and DOC staff).

Visiting Bills

We are very happy to see that three bills focus on the very important but often overlooked aspect of corrections: visiting. Paying attention to visiting has always been important, but now people are possibly more isolated than ever before and staying very long times (i.e., measured in years) on Rikers, with unsafe conditions well-documented. Staying connected to their outside support systems can literally be a lifeline. The Department facilitates dramatically fewer in-person visits than it did pre-pandemic. Using the figures acquired by a FOIL request and reported in [an article by The City](#) (October, 2023)¹, in 2023 DOC facilitated more than 101,000 **fewer** in-person visits than in 2019 (approximately 47,000 in-person visits in 2019, compared with 149,522 in 2019). These numbers conflict with the testimony given by DOC at today's hearing, where it was reported that DOC facilitates 20,000 to 25,000 visits quarterly. **We hope the Council will ask DOC for clarification about the actual numbers, separating in-person visits from televisits. We also hope the Council will ask for details about the wait times visitors are experiencing**, disaggregated by facility, from their arrival at the Central Visit House, to the start of their actual visit, to their departure off the island.

We thank the sponsors of the three bills – Councilmembers Rivera, Hudson, and Gutierrez – for their attention to visiting. We also are grateful for two past City Council visiting bills that are now law and make a significant difference: Int 706-A passed in 2019 requires the current quarterly [reporting](#) on visiting and televisiting, and Local Law 23 requires [annual training](#) of DOC staff who work in visiting areas to be trained on visiting procedures. Two of the bills discussed today can strengthen these previous bills.

Before diving into the details of the visiting bills, I wanted to take a minute to remind us all of just how important and critical visiting is for those inside Rikers and for their children and families. To have a visiting process that prompts people leaving to say they will never come back, and that leads to the title of a 2018 report called [Makes Me Want to Cry](#) (by the Jails Action Coalition), or as the quote below illustrates, has people inside foregoing their relationships to avoid subjecting loved ones to the process ... *is simply not acceptable.*

“Parents are seeking to protect their children and unfortunately, for incarcerated parents, that often means forgoing that [visit] in the interest of their child.”²

The visiting process can be improved and needs to be improved in so many ways. I say this not blaming corrections staff, but more so pointing to the lack of a collective problem-solving culture within DOC. In 2019, Osborne was contracted by DOC to provide all-day training to visiting staff on Rikers and VCBC (which was open at the time) and this included staff who drove the DOC visiting vans and bail window staff who interacted with the public. What we found was that these

¹ <https://www.thecity.nyc/2023/10/19/15000-jail-video-visits-canceled/> “In 2019, there were 149,522 in-person visits, the records reveal. That figure dropped to 23,322 in 2020; 11,204 in 2021; and 28,756 in 2022, according to DOC figures. The number is up to 35,767 this year as of Sept. 30, the department said.” Taking the 9 months figure, dividing it by 9 and multiplying it by 12 gives the estimated number of in-person visits for the full year of 2023, which yields 47,689 in-person visits.

² Attorney MK Kaishian, <https://www.cityandstateny.com/policy/2023/07/heres-how-parents-are-really-treated-rikers/388753/>

staff were not included in designing visiting procedures and visiting rooms, despite having ideas and solutions, and they were also under constant stress and missed their own families. Visiting staff are expected to work every weekend with Monday and Tuesday as their days off – no rotations, no exceptions. At that time, visiting staff processed close to 700 visitors per day.

We took on this training opportunity with the goal of building empathy for visitors among the DOC staff, but what we learned was that they wanted someone to have empathy for them first. I say this to encourage DOC leadership to consult the on-the-ground staff as well as those in custody and their families to implement better processes and protocols. Many of the staff we trained had been in their visiting posts for more than a decade. They know a lot about their jobs and have ideas for how to improve interactions and everyone's experiences. They knew which visiting waiting areas had broken lockers and they worried about kids hurting themselves. They knew the currently bolted tables and plexiglass would block their line of sight, but they were not consulted and they resented it. Unfortunately, sometimes this resentment and feeling excluded and frustrated transfers to visitors. This was all pre-Covid and years ago now, but the lesson can be valuable to all of us today. The way to an improved visiting process and overall improvement of conditions involves all of us talking and, more importantly, listening to one another.

Int 1023 requires an online visiting registration system, which would greatly improve communication, but **Osborne would only support this bill if it adds clarification that online registration would not be required but offered**. Visitors will continue to come to Rikers without registering online and they should not be turned away. Not everyone has access to online registration, and people often visit at the last minute and need the flexibility to get to Rikers when they can.

We applaud this bill for its intent to improve and increase communication with visitors and prevent visitors from coming if there is an all day lockdown or there will be a significant delay. We want to point out that this system would have to be developed for DOC as the current "online registration system" for televisits is actually a manual scheduling system. It has been explained to me by a DOC Captain that they print out the televisit requests and manually enter them into a calendar and then email families to notify them of their time slot. There is no app, digital system, or algorithm that is used. While there are numerous scheduling apps that exist, DOC does not currently use one. So this new online registration system the bill would establish would greatly improve the current televisiting scheduling process.

Int 1026 strengthens the existing Int 706-A, which already requires quarterly reporting on visiting data and recording visit refusals. This bill importantly adds detail and specificity to the reasons why visits and televisits do not happen. It also mentions visiting training, which was required by Local Law 23. **e recommend amending this bill to specify that training must include interacting with child visitors** and specify that this must include, but not be limited to: child development, de-escalation, trauma triggers and trauma-informed approaches, and children with special needs.

We also recommend requiring visiting to be included in the indicators on the Mayor’s Management Report. Visiting as an aspect of DOC’s operations is completely absent in the [MMR](#).

We commend the bill’s sponsor for seeking to address the issue of people refusing their visits when told they have a visitor. The bill requires DOC to “record interactions in which an individual is informed about a visitor and refuses to attend the visit.” Before the bill is finalized, we encourage the sponsor to seek input from defense attorneys and court advocates, as well as formerly detained people and their families, and DOC staff, to make this a meaningful recommendation that yields what it requires.

Int 420 importantly focuses on improving the visiting experiences of children, and we are grateful that it does so. Attached to my testimony is a mark-up of this bill, as we recommend several additions and changes to strengthen this bill.

As mentioned earlier, one addition we are recommending for Intro 420 relates to the wait times of visitors. With DOC’s Visitor Express system, it should be possible to analyze the average wait times of visitors per facility. We ask that the Criminal Justice Committee request such a study be done to ensure visitors, especially those with children, are not waiting hours and hours. We also call attention to a consent decree in place from 1992 to 2001 that required that visitors not wait more than one hour from arrival to starting their visit. Unfortunately, in 2001, a federal judge dismissed the consent decree and waiting times have not been tracked or held to within a limited time since to our knowledge.

The Importance of Programming

I believe the intentions of the bills being discussed today are to keep people on Rikers safe and to respect their humanity and dignity. Program providers contribute invaluable towards this goal. The elimination of the Targeted Approach Providers (5 community-based organizations serving thousands of people in Rikers each year) in July 2023 has had a devastating impact on those inside. We call on the City to restore the \$17 million for program providers that was abruptly cut.

The benefits of programming are enormous and have ripple effects that benefit Officers, families, and communities. Since programs were eliminated, individual and group sessions have dramatically decreased (as documented in the Mayor’s Management [Report](#)), and people in custody are not getting the 5 hours of programming across all housing areas they have a right to by law.

With the population of people on Rikers increasing and lengths of stay being disturbingly long (see the [NYC Comptroller’s report Ensuring Timely Trials](#) detailing how to reduce these and save \$877 million per year), we also urge an “all hands on deck” approach to decarceration, including investing in ATDs and ATIs; expanding treatment and mental health services; improving court processing times and court production; funding Second Look efforts; and expanding an array of housing options.

It will take all of us working together, along with critical investments, to transform what pre-trial detention looks like in NYC and, ideally, intervene to prevent it in the first place.

Thank you to the City Council for your leadership on protecting the lives and humanity of those in and affected by Rikers, and for moving us ever closer towards closing it.

Contact:

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***Osborne Comments and Amendments to Int 420
Councilmember Carlina Rivera***

(previously) Int 356 - By Council Members Rivera, Louis, Hanif, Joseph, Narcisse, Avilés, Williams, Cabán, Ung, Ossé, Ayala, De La Rosa, Restler, Richardson Jordan, Riley, Gutiérrez, Abreu, Won, Barron, Schulman and Farías -

*A **Local Law** to amend the administrative code of the city of New York, in relation to establishing a program, **and procedures** for child visitors of department of correction facilities.*

Note: suggested additions and edits are highlighted below.

Int. No. 356

By Council Members Rivera, Louis, Hanif, Joseph, Narcisse, Avilés, Williams, Cabán, Ung, Ossé, Ayala, De La Rosa, Restler, Richardson Jordan, Riley, Gutiérrez, Abreu, Won, Barron, Schulman and Farías

A Local Law to amend the administrative code of the city of New York, in relation to establishing a program **and procedures** for child visitors of department of correction facilities

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 9 of the administrative code of the city of New York is amended by adding a new section 9-156 to read as follows:

§ 9-156 Child visitor program. a. Definitions. For purposes of this section, the following terms have the following meanings:

Borough jail facility. The term “borough jail facility” means any department facility that is located outside Rikers Island and in which people held in department custody are housed.

Child visitor. The term “child visitor” means a visitor under 16 years of age.

City jail. The term “city jail” means any department facility in which people held in

department custody are housed, .

Department. The term “department” means the department of correction.

Visiting area. The term “visiting area” means any space within any city jail designated for the purpose of visits.

Visitor. The term “visitor” means any person who enters a city jail for the purpose of visiting a person housed in any city jail, or any person who is screened by the department for visiting purposes, and includes the term “child visitor.”

• b. The department, in consultation with not-for-profit organizations with expertise in issues affecting child visitors, shall develop a program *and policies, procedures and training* to improve the visiting experience for child visitors and all other participants of visits involving children. Such program, policies and training shall have the following features:

1. In all visiting areas where child visitors will be with the person in custody they are visiting, the department shall provide toys, games, books and arts-and-crafts for interaction between visit participants of all ages;

2. *Contact throughout the duration of the visit will be permitted between children and their parents/caregiver [in the specially designated visiting area for child visitors]. (Note: Contact is already permitted in the minimum standards for child visitors in the general visiting room up to age 14.)*

**maybe take out the specially designated areas as this involves building/ creating separate areas which isn't feasible immediately in many facilities- children should be able to have contact even outside of specially designated areas which is the way many visiting rooms on Rikers used to be- with small tables and chairs (no plexiglass barrier and bolted tables)*

3. The department shall require all department staff who interact with child visitors

to receive training designed to minimize stress for child visitors and including information about child development, communicating with children across ages, and de-escalation with children and young people; and

4. All new or substantially remodeled city jails shall have a *specialty designed visiting waiting area and* specially designed visiting area that includes children's books and toys for child visitors and those who accompany them.

5. *Visiting hours will include weekend options for both in-person visiting and video visiting so that children do not need to miss school to visit*

6. *Visitors with children shall not wait more than one hour between processing and starting their actual visit. Time stamps from Visitor Express shall be used to measure compliance with this requirement and average wait times per month per facility shall be added to Intro 706-A (requiring quarterly reporting on visiting and televisiting) or any updates to this law passed heretofore.*

c. No later than 90 days after January 1, 2025, and annually thereafter, the department shall submit to the board of correction and the speaker of the council, and post on the department's website, a report regarding its efforts to improve the *visiting* experience for child visitors pursuant to the requirements set forth in subdivision b of this section. Such report shall include, but need not be limited to, the following information:

1. The number of visitors, specifying *adult and child (under 16) visitors* to city jails, disaggregated by borough jail facilities and city jails on Rikers Island, and disaggregated further by facility;

2. [The number of visits by child visitors, disaggregated by borough jail facilities and city jails on Rikers Island, and disaggregated further by facility;] *this could be taken out as it is now covered in the above if child visitors are added*

3. The number of visits by child visitors that occurred in visiting areas specially designed for child visitors pursuant to subparagraph 3 of subdivision b of this section, disaggregated by facility;

4. The average wait times between processing and starting the visit for visitors with children per facility.

5. The number of department staff that interact with child visitors [Including Officers who process visitors at the Central Visit House, facility, borough jail, and DOC van and bus route drivers];

6. The number of department staff who have received visiting training required by subparagraph 2 of subdivision b of this section;

7. The inventory of toys, games, books and arts-and-crafts required by subparagraph 1 of subdivision b of this section, disaggregated by borough jail facilities and city jails on Rikers Island, and disaggregated further by facility; [Note: this annual update should include who is responsible for overseeing the children's area in each jail facility and how toys are cleaned/sanitized and replenished ;

8. A description of the department's efforts to collaborate or consult with experts from relevant nonprofit organizations;

9. A list of borough jail facilities and city jails on Rikers Island, if any, that do not have visiting areas specially designed for child visitors; and

10. A description of additional improvements made or initiatives taken by the department to improve the child visiting experience.

d. The information required by subdivision c of this section shall be compared to the

previous four reporting periods whenever possible, stored permanently and made accessible on the department's website.

§ 2. This local law takes effect 120 days after it becomes law, except that the department of correction shall take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

Session 12
RCC
LS#8662
4/22/22

Session 11
NC
LS #7658 and 8543
12/17/18

Dear Chair Salaam and members of the Committee on Criminal Justice,

My name is David Siffert, and I am the Legal Director at the Surveillance Technology Oversight Project, the Director of Research & Projects at the Center on Civil Justice at NYU School of Law, Vice President of the Village Independent Democrats, and an Adjunct Professor of Clinical Law at NYU Law. I submit this comment in support of Intro 423-2024 on my own behalf.

Intro 423-2024 is critical transparency legislation for New York City, addressing one of New York's most shameful human rights abuses.

About 50 people have died on Rikers Island over the past 4 years – an unacceptably high number. After each death, the Department of Correction often reports that it occurred, but it does not disclose the investigation and report it produces in response to such death. This lack of transparency reduces the incentive and the ability of DOC to prevent future deaths.

However, even the policy of announcing each death has been scaled back. In May 2023, DOC announced that it would stop notifying the media of such deaths, [leaving not just the public but even the court-appointed monitor in the dark](#). In 2022, Louis Molina, then-Commissioner of DOC, [intentionally tried to cover up a death](#). He has since been promoted to Assistant Deputy Mayor for Public Safety and then to Commissioner of the Department of Citywide Administrative Services.

This all takes place within an accountability crisis at DOC. In January 2022, Molina [pushed out Deputy Commissioner for Intelligence and Investigation Sarena Townsend for actually conducting investigations](#). After DOC's oversight body, the Board of Correction, [found neglect to be a pattern in these deaths](#) in September 2022, DOC began withholding information from the Board. In January 2023, DOC [stopped sharing security footage with the Board](#). In July 2023, DOC [stopped sharing timesheet data with the Board](#).

Overall, under Mayor Adams, DOC have made jails more dangerous, decreased transparency over the problems, and all-but-eliminated accountability for those who contribute to the dangerous conditions.

Intro 423-2024 is a first step towards improving conditions for incarcerated New Yorkers. Transparency both as to the number of deaths but also as to the cause and circumstances of deaths will allow the City Council and the public to work on solutions to a problem DOC and the Mayor refuse to address.

I do, however, feel the bill could be strengthened. Molina's aforementioned attempt to cover up a death at Riker's was undertaken by granting compassionate release so that the individual could die in a hospital while technically free. As a result, the death would not "count" as a death in

custody. DOC's ability artificially to reduce deaths in custody this way has [received press attention](#). I believe the bill should be amended to require that DOC maintain communication with any hospital into whose care they release an inmate. If that inmate dies without being discharged, DOC should be informed, and then create and publish a report on the death in a similar manner as required for deaths in custody.

This amendment would give a more realistic assessment of deaths that occur due to conditions in New York City's jails.

Thank you for your time and consideration.

Sincerely,

David Siffert



**TESTIMONY OF
THE FORTUNE SOCIETY**

**THE NEW YORK CITY COUNCIL
COMMITTEES ON CRIMINAL JUSTICE
AND HOSPITALS**

City Hall,
New York, NY

Wednesday, September 27, 2024

SUBJECT: Committee Hearing

PURPOSE: To support Local Laws 412-2024, 423-2024, 1023-2024, and 152-2024

Presented by

Reggie Chatman
Director of Policy,
David Rothenberg Center for Public Policy

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Thank you Chairs Nurse, Narcisse, and members of both the Committees on Criminal Justice and Hospitals for giving me the opportunity to testify before the City Council.

My name is Reggie Chatman. I am the Director of Policy at The Fortune Society's David Rothenberg Center for Public Policy. I am a formerly incarcerated person who spent 25 years in the criminal legal system. Since my release, I have also obtained an MPH in Epidemiology and Health Policy and Practice.

The combination of my lived experience and academic training have given me a unique lens through which to assess the Department of Correction's (DOC) responsibility to provide incarcerated people with adequate health services, respond appropriately in cases of emergency, and ensure that they maintain connections with loved ones. Upholding these responsibilities protects incarcerated people's lives, improves their long-term health, and increases their ability to be productive members of society, all of which helps to rebuild people, families, communities, and improve public health.

The Fortune Society is a 57-year-old organization that supports successful reentry and alternatives to incarceration, which strengthens the fabric of our society. We do this by believing in the power of people to change, building lives through service programs shaped by our participants' experiences, and changing minds through education and advocacy to promote the creation of a fair, humane, and truly rehabilitative justice system. It is a core component of our mission to advocate for policies that ensure people held in our jails, and those who love them, are treated with respect and human dignity. DOC currently lacks a transparent investigative process when a person dies in its custody, is not required to make notifications to family and other supportive resources when an incarcerated person experiences a medical emergency and continues to employ an antiquated visit scheduling system. Fortunately, Local Laws 423, 412,

1023, and 152 can help remedy these crises. The Fortune Society supports these bills to ensure that incarcerated people are treated as having the ability for growth and change, that every life matters, and that the way DOC treats them reflects our collective sense of humanity.

The need to pass Local Law 423 is a matter of morality, humanity, and public health. In less than three years, 33 people have died while incarcerated in NYC jails or shortly after their release from issues they appeared to have sustained while incarcerated.¹ The people who died are not just statistics, but our fellow New Yorkers who had families, stories, and the right to be treated with dignity in the wake of their deaths. When someone loses their life while in DOC custody or shortly after their release, we must have policies in place to investigate these occurrences, ensure transparency by reporting findings, and most importantly, demonstrate respect for human life by changing policies and practices accordingly. Unfortunately, these measures were not in place for the numerous people who have died while in DOC facilities or shortly after their release, the most recent of whom were Karizma Jones and Anthony Jordan.² In mandating transparent investigations when someone dies in DOC's custody, Local Law 423 ensures that our city's public institutions adhere to basic human rights standards. Doing so also holds the government accountable and re-establishes community trust, which enhances public safety.

Local Law 423 also functions as a preventative measure and public health solution. The transparent investigative process that the bill establishes creates an opportunity to engage in injury prevention. This is a public health approach that aims to improve community health by collecting information when a death or an injury occurs, and then using the information acquired in the investigation as a

¹Sam McCann., Eric Bryant. "Fifth Confirmed Jail Death in 2024 Brings New York City's Total to 33 Under Mayor Adams." Vera Institute, (2024). [Fifth Confirmed Jail Death in 2024 Brings New York City's Total to 33 Under Mayor Adams | Vera Institute](#)

² Robert Abuzzese. "Rally held for Charizma Jones and Anthony Jordan, demanding reform in NYC Jails." (Brooklyn Daily Eagle, September 12, 2024). <https://brooklyneagle.com/articles/2024/09/12/rally-demands-reform-in-nyc-jails/>

guidepost to establish safe practices that reduce future harm.³ This will reduce the risk that others will die under DOC's care going forward.

The need to pass Local Law 412 is a moral imperative. Incarcerated people lack control over their environment and depend on DOC to provide them with basic health care, safety, and a humane environment. The stress of confinement and lack of support makes incarcerated people more vulnerable to mental health crises, self-harm, and serious injuries.⁴ The government also has an obligation to care for the people under its control.⁵ Incarcerated people have limited autonomy, face social isolation, and are at increased risk of violence and health disparities. Therefore, DOC has an ethical duty to promptly notify their emergency and legal contacts when they experience a health emergency. Local Law 412 will allow DOC to more effectively monitor incarcerated individuals' well-being and reduce the risk of neglect or indifference to life-threatening conditions. In doing so, it prevents incarcerated people who experience medical emergencies from suffering in silence and gives the people who support them the opportunity to provide them with the care and assistance that they need and deserve.

Local Law 412 also functions as a preventative measure and public health solution. Providing incarcerated people with supportive resources via their attorneys and families immediately after they experience a medical emergency increases the likelihood that they will recover from the traumatic experience.⁶ This also reduces the risk that they will develop negative long-term health

³ CDC Foundation. Who We Are/What is Public Health?. (CDC Foundation 2024) <https://www.cdcfoundation.org/what-public-health#>

⁴ Louis Favril et al. "Risk factors for self-harm in prison: a systematic review and meta-analysis." *The Lancet Psychiatry*. 2020;7(8):682-691. [https://www.thelancet.com/pdfs/journals/lanpsy/PIIS2215-0366\(20\)30190-5.pdf](https://www.thelancet.com/pdfs/journals/lanpsy/PIIS2215-0366(20)30190-5.pdf)

⁵ Jay Bhatt et al. "Ensuring Access to Quality Health Care in Vulnerable Communities." *Acad Med*. 2018;93(9):1271-1275. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6112847/>

⁶ Center for Substance Abuse Treatment (US). *Trauma-Informed Care in Behavioral Health Services*. Rockville (MD): Substance Abuse and Mental Health Services Administration (US); 2014. (Treatment Improvement Protocol (TIP) Series, No. 57.) <https://www.ncbi.nlm.nih.gov/books/NBK207201/>

effects.⁷ Reducing this risk is important in that most people who are incarcerated will eventually get released. This is particularly true for the people held on Rikers, the overwhelming majority of whom are pre-trial detainees. If they develop unresolved trauma and medical conditions during their incarceration, this will undoubtedly have negative effects on their families, communities, and society at large. Local Law 412, however, decreases the risk that this will occur. It is in this sense that it functions as an injury prevention method, and thereby a public health solution.

Local Law 1023 represents a critical step toward addressing issues of humanity, reentry, and public health. Establishing an online visiting scheduling system assists incarcerated people in maintaining their emotional and psychological well-being by making it easier for them to maintain family ties and community connections. Family ties and community connections increase the likelihood that a formerly incarcerated person will have a successful reentry. Successful reentry is also associated with reduced recidivism and thus contributes to safer communities, which also reduces the burden on public health systems. Promoting visits and thus family and community ties reduces barriers to successful reentry and increases the likelihood that justice-impacted people will function as model citizens who positively contribute to their families, communities, and society.

Furthermore, in the spirit of increased transparency and humane treatment, we also support Local Law 152, regarding the task force charged with reviewing policies pertaining to the treatment and housing of transgender, non-binary, intersex, and gender non-conforming people held in our jails. This bill will require that DOC and Correctional Health Services provide the task force with information necessary to fulfill its mandate.

⁷ Ibid.

In conclusion, The Fortune Society supports these four bills because they align with our commitment to advocate for policies and practices that promote incarcerated individuals' access to support and their successful reentry, which fosters our collective wellbeing. Thank you for the opportunity to share my testimony.



The New York City Council

Committee on Criminal Justice

Considering the following proposed legislation:

Int. No. 0151, No. 0152, No. 0206, No. 0412, No. 0420, No. 0423 No. 0625, No. 0735-A, No. 1023, No.1027, No.1027, No.1036

Chair: Council Member Sandy Nurse

September 27th, 2024

Submitted by:

Criminal Law Reform and Special Litigation

Cassandra Kelly, Staff Attorney

Ckelly@legal-aid.org

The Legal Aid Society

Criminal Defense Practice

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This testimony is submitted on behalf of The Legal Aid Society, New York City's oldest and largest public defender organization.

The Legal Aid Society is built on one simple but powerful belief: that no New Yorker should be denied the right to equal justice. We seek to be a beacon of hope for New Yorkers who feel neglected -regardless of who they are, where they come from, or how they identify. From our start over 140 years ago, our growth has mirrored that of the city we serve. Today, we are proud to be the largest, most influential social justice law firm in New York City. Our staff and attorneys deliver justice in every borough, working tirelessly to defend our clients and dismantle the hidden, systemic barriers that can prevent them from thriving. As passionate advocates for individuals and families, The Legal Aid Society is an indispensable component of the legal, social, and economic fabric of our city.

In response to the bills addressed by the Council during this hearing, we first refer you to the powerful oral and written testimony by our colleagues in the Legal Aid Society LGBTQ+ Law and Policy Unit which is being offered specifically on Intros 625,152, and 1027. In addition, we at the Legal Aid Society offer the following recommendations on the other bills under consideration.

Intro 151
Position: Support

We commend CM Cabán for introducing legislation to end the stigmatizing language used to refer to our friends, community members and loved ones who are detained and incarcerated. We applaud the recognition that we must emphasize personhood over status-saturated identifiers.

While on its face this is a simple linguistic change, as public defenders we too often see the casual dehumanization that corrections officers, court officers, police officers and even Judges and prosecutors use to refer to people in their custody. Every public defender in New York City has heard a person they represent referred to as “the body” when inquiring as to where their client is. Step into any city courtroom and you will hear the likes of, “We are bringing the body down now.” We are told we can see our clients in “the pens” and in arraignments hear the bridge

officer announce “ONE coming out” instead of referring to the individual who is being arraigned, presumed innocent, on criminal charges. This casual dehumanization leads to the larger systemic issue of refusing to provide basic care and attention to New Yorkers in custody.

When the language we allow is dehumanizing, it creates conscious and subconscious dehumanization associated with the terms. It is time to change our language while we remain ever committed to changing the larger, dehumanization of the criminal legal system and its jail houses.

Intro 206A

Position: Support

The Department of Correction has repeatedly demonstrated that it is not prepared, not trained, and not willing to protect incarcerated people in its care. It is with this understanding that we urge you to pass Int. 206A and make it mandatory for correction officers to carry and administer naloxone.

As our social workers know all too well, those we represent at Legal Aid report that overdoses are a regular and traumatic occurrence. All too often— our clients are the ones who carry and administer naloxone to save the lives of their peers. Some have shared that while an incarcerated person was on the floor, fighting for their life during an overdose, officers have screamed for assistance from other incarcerated people to intervene.

This too-common scenario of refusing to provide basic care for people in their custody is at the heart of the tragic and preventable death of far too many New Yorkers. Take the tragic death of Jose Mejia Martinez, who had a known history of drug use and died from a fatal methadone overdose after he was left alone and unconscious in his cell for more than three hours after staggering around a jail in plain view of correction officers.¹ Mr. Elijah Muhammad, one of the 19 New Yorkers who lost their lives while detained at Rikers Island in 2022.² was suffering from

¹ See “Lawsuit claims Rikers officers ignored detainee who died following overdose” by Reuvan Blau, June 15, 2023 available at <https://www.thecity.nyc/2023/06/15/lawsuit-rikers-martinez-death-overdose/>

² See Gothamist “Former Rikers Correction Officer Won’t Face Charges in Detainee’s 2022 Death” by Herb Pinder, published September 23, 2024. Available at <https://gothamist.com/news/former-rikers-correction-officer-wont-face-charges-in-detainees-2022-death>

a fatal dose of narcotics. According to the inquiry conducted by the NY State Attorney General³, correction officers, including CO Ezra Lewis observed him in a state of distress over several hours and failed to give him any care. In another death during a particularly deadly year, Legal Aid client Michael Lopez also died due to a drug overdose.⁴

These incidents -- and too many others-- reveal staff's shocking unpreparedness, inability, and unwillingness to respond in a moment of crisis. Every minute that passes during an overdose is a minute closer to death. This is completely unacceptable and while ultimately, this lack of care and action must drive us to continue the fight to close Rikers island by the 2027 legal deadline, these tragic and unnecessary deaths also highlight a serious and immediate need for exactly the type of change that Int. No. 206A will bring.

Our position is clear: the burden of saving lives should not fall solely on the shoulders of incarcerated people. We urge you to pass Int. No. 206A and make it mandatory for correction officers to carry and administer naloxone. We congratulate CM Haniff for the recent amendment to this bill that adds language mandating DOC to offer Narcan kits and informational packets to those being released from Rikers, at their request. This is an important and forward-thinking addition that will help to protect communities as studies show the risk of overdose is highest in the days and weeks immediately after release from custody.⁵

³ Office of the New York State Attorney General Leticia James, Office of Special Investigation, "Report on the Investigation into the Death of Elijah Muhamed", September 19, 2024 available at <https://ag.ny.gov/sites/default/files/reports/osi-elijah-muhammad-report.pdf>

⁴ See "Latest rikers death highlights both mental health and oversight issues", Reuvan Blau August 1, 2022, available at <https://www.Thecity.Nyc/2022/08/01/latest-rikers-death-mental-health-and-oversight-jail/>

⁵ "Justice-involved individuals are a large segment of the population with a very high prevalence of [Substance Use Disorder or SUD] and its attendant health consequences. Our study confirms that these individuals experience rates of fatal and non-fatal opioid overdose many times higher than the general population. Even though a large proportion of individuals with SUDs pass through the criminal justice system, prisons and jails remain under equipped to manage the healthcare needs for these high-risk individuals. While we identified several factors that exacerbate post-release overdose risk, there is an urgent need to further refine tools to improve identification of those who are at high risk. Additionally, there is an urgent need for prisons and jails to develop and scale programs to ensure incarcerated individuals have access to lifesaving [Medications for Opiate Use Disorder] and other harm reduction interventions both during and after their release into the community See Center for Disease Control "Fatal and non-fatal opioid overdose risk following release from prison: A retrospective cohort study using linked administrative data", by Daniel M Hartung, PharmD, MPH, Caitlin M McCracken, MPH, Thuan Nguyen, MD, PhD, Katherine Kempany, PhD, and Elizabeth Needham Waddell, PhD, published April 2023 available at https://stacks.cdc.gov/view/cdc/145946/cdc_145946_DS1.pdf

Intro 412

Position: Support with Necessary Amendments

We support Int 412, with recommended amendments. We thank the families and advocates who have raised the alarm and pushed for this legislation. We recommend that the Council add language allowing an individual to choose under what circumstances disclosure is appropriate and to whom the information can be disclosed. An individual should choose whether to authorize disclosure to *either* defense counsel or emergency contacts (i.e., they do not have to choose both—maybe they don't trust one or the other); and to choose whether to make such disclosure in some but not all of the specified circumstances (i.e., "notify my mother if I am hospitalized, but not if I am seriously injured, because I don't want to worry her"). Provided these amendments are made, we would then be in full support of Intro 412. As the Department of Correction has proved time and time again, it does not notify families when their loved ones have been harmed. This lack of transparency must be remedied. Not only should it alarm New Yorkers that no notification is provided to loved ones in emergency situations, but this blockade of vital information also serves to cut people off from their loved ones and attorneys when outside advocacy and support is most crucial. This legislation, with recommended amendments, would provide another route to ensure their safety by ensuring their family members, and lawyers, are notified when they need additional support and are at risk of, or attempt, self-harm.

The need for this legislation is illustrated in the tragic story of Legal Aid Client Erik Tavira. After dying by suicide, one of the few things Mr. Tavira⁶ left behind was writing on scraps of paper in his cell that read, “I currently sit in a cell in Rikers. It’s going to take more than the man I am to get out of this hell,” he wrote. ‘My life can’t and won’t be wasted. I don’t trust no one and I will get out one way or another.’” Records provided by his family attorney to the Daily News showed that Correctional Health Services (CHS) noted his suicidal ideations but did not place him on suicide watch, nor inform his family. Weeks later, according to his CHS records, Mr. Tavira poured scalding water on himself and CHS staffers failed to recommend him for suicide watch or higher supervision or again, notify his family. Like too many of our Black and brown community members, Mr. Tavira's obvious need for support with his mental illness was

⁶ “New documents lay bare warnings, missed chances in preventing 2022 Rikers suicide” by Graham Raymond, September 25th, 2024. [Available at https://www.nydailynews.com/2024/09/25/new-documents-lay-bare-warnings-missed-chances-in-preventing-2022-rikers-suicide/](https://www.nydailynews.com/2024/09/25/new-documents-lay-bare-warnings-missed-chances-in-preventing-2022-rikers-suicide/)

met with police and cages. According to documents provided to the Daily News by Mr. Tavira's family attorney, during the 490 days he was detained, DOC kept his family in the dark about his suicide attempts, leaving them to mistakenly believe he was getting the support he needed, and leaving Mr. Tavira without an advocate on the outside.

Int 412, with the necessary recommendations, could potentially change the course of deaths like Mr. Tavira's by ensuring that loved ones are informed of self-harm or suicidal attempts before an attempt turns into a death. This transparency gives loved ones and attorneys the knowledge necessary to advocate to stop preventable deaths. Loved ones, and lawyers, with the consent of the person who is incarcerated, must know when people are struggling and have attempted suicide so they can fight for their loved one at a time when they do not have the strength to fight for themselves.

Intro 420
Position: Support

We support Intro 420 and commend the Chair Nurse and the Council for acknowledging the crucial need for child-friendly visiting areas and specialized training for DOC staff interacting with child visitors. Research has shown the emotional experience of visiting a correctional facility can be highly overwhelming and stressful for children⁷ and this bill effectively addresses this issue. Our on-island staff in the Incarcerated Client Services Unit has often observed families with children coming off the bus to encounter officers with K9's ready to conduct searches. A separate entrance to a family-only welcome center that is not as intimidating, offering books and games while they wait to go on to the specific jails for visits would certainly be a step in reducing the trauma and immediate imposition currently associated with visiting loved ones incarcerated at Rikers Island. We applaud Chair Nurse for introducing this bill and fully support its passage and swift implementation.

Intro 423
Position: Support with Necessary Amendments

⁷ See Arditti, J. A. (2003). Locked doors and glass walls: Family visiting at a local jail. *Journal of Loss and Trauma*, 8, 115–138. 10.1080/15325020305864.

Although we appreciate and understand the intent of **Int 423**, and its call for transparency, we believe crucial amendments are needed to protect the privacy of those we represent at the Legal Aid Society. The bill in current form includes significant breaches of privacy for the deceased individuals and their family. While there is understandably a strong public interest in ensuring that people who died received proper health care and responses to their grievances, this information is too personal for us to support its blanket waiver upon death simply because a person died while in custody. To this end, we suggest that paragraphs 1.i. (h)-(j) should be struck. This will ensure transparency is served while protecting the privacy of deceased individuals and their family.

Intro 735

Position: Oppose

As written, we must oppose Int 735. We unreservedly support mental health services being provided to staff that have experienced trauma. However, Int 735 goes beyond that and requires the creation of a harmful database that will be detrimental to those detained at Rikers.

The proposed legislation creates a database that enumerates very specific information for collection, including specific information about the alleged assailant and whether the allegations were reported to law enforcement. At Legal Aid we cannot support a database created for prosecution, especially when it does nothing to acknowledge a scenario where a report of physical abuse naming an incarcerated individual as the assailant may have been filed to cover up the initial aggression of a DOC assault on incarcerated people. This bill does not consider the power imbalance between DOC staff and detained New Yorkers, or the documented history⁸ of unreported abuse of incarcerated individuals at the hands of DOC.

To protect this vulnerable population of incarcerated people, we urge the council to oppose Int 735 with its focus on a wide reaching and potentially harmful database and focus on legislation providing support to CHS staff who have suffered trauma.

⁸ See “How Brutal Beatings on Rikers Island Were Hidden From Public View” by Jan Ransom and William K. Raushbaum, The New York Times, March 2, 2022. Available at <https://www.nytimes.com/2022/03/02/nyregion/nyc-jail-beating-rikers.html>.

Intro 1023**Position: Recommend Necessary Amendments**

Unless amended to be limited to tele-visits, we **oppose Int** 1023 as it creates an unnecessary hurdle for families to visit loved ones in-person at Rikers. In-person visits should not be regulated to strict time schedules, especially as public transportation to the Rikers Visitors' building depends on a singular public bus line and singular on-island bus that ferries visitors across the bridge. Adding to the long trip to set foot on the island are the drug-sniffing dogs, frisks, fingerprinting and photographs that visitors must endure. This bill, in its current form, would place restrictions on an in-person visitation process that already is cumbersome and difficult for loved ones. We understand that the intent of this legislation is to ease the burdensome process, not make it more difficult. While we appreciate the intent of offering scheduled in person visits, given the current state of the Department of Correction, we fear it will turn into a bureaucratic hurdle used to turn away people who may arrive even minutes late for a scheduled appointment. Intro 1023 should be amended to limit its reach to tele-visits alone.

Intro 1036**Position: Support with recommendations**

We support this legislation as it will help us understand and monitor where the problems in the system are, especially as those problems unfold. Currently, our mental health teams in Manhattan are reporting rising delays of several weeks to two months for exam scheduling and completion. With the current lack of data, it is hard for us to know where to direct our observations, whether it's an issue with the court clerks, Correctional Health Services, or another party.

We want the best available data so we can best understand how to reform a system that daily harms people we represent. Delays in the 730 examination process directly bear on the length of time that an individual, many of whom suffer from severe mental illness, will remain in jail and be subject to criminal process for longer than necessary. People with serious mental illness often have an extraordinarily difficult time in correctional settings because of the lack of control over their schedule and actions. They often face more harassment and discipline from correctional

officers because of their inability to adhere to certain behavioral norms and their paranoia or refusal to follow orders. They are also more likely to suffer physical and sexual assault. Rikers Island is especially dangerous for individuals with severe mental illness as it is rife with violence and lacks adequate medical and mental health services.

We do offer friendly recommendations for amendments to the legislation. First, we recommend that in the enumerated list of what these reports shall include that items 13 and 14 should require disaggregation between those people discharged to a state institution versus people discharged to a city institution (for example, this will most frequently be a designation between the Office of Mental Health “OMH” or New York City Health + Hospitals “NYC H+H”). We understand this will most likely closely align with the felony/misdemeanor distinction already included in the reporting requirements, but it would be an additional helpful data point to aid us in understanding outcomes and ensuring that no anomalies exist. Second, we recommend that in the same enumerated list under part “b)”, items 6, 7, 9, 11, 12, 13, and 14, should require the median length of time in addition to the average length of time requested.

We also support expanding the reporting requirement to include: the average and median length of time from when CHS receives an order of examination to when department of corrections discharges the individual to an appropriate institution further disaggregated by whether the person was charged with a felony or a misdemeanor offense; and the average and median length of time between when a person in custody is deemed an incapacitated person following a mental health examination and their discharge to an appropriate institution further disaggregated by whether the person was charged with a felony or a misdemeanor offense.

This additional reporting is important in light of the fact that in 2023, individuals deemed incapacitated to stand trial and ordered to receive competency restoration waited on average more than two months at Rikers before being transferred to an appropriate institution for treatment.

Conclusion

As always, we commend Chair Nurse and the Committee for taking up the issues that affect vulnerable New Yorkers and for seeking out solutions for systemic problems. We thank you for your consideration of our positions and remain open and available for further explanation and collaboration.



New York City Council
Committee on Criminal Justice

Hearing on Proposed Legislation:
Int. No. 0152, No. 0625, & No.1027

September 27, 2024

Testimony of
The Legal Aid Society's LGBTQ+ Law and Policy Unit

The Legal Aid Society appreciates the opportunity to submit testimony concerning three bills addressing the rights of incarcerated transgender, gender nonconforming, nonbinary, and intersex (TGNCNBI) people in the custody of the Department of Correction (the Department or DOC) before the Criminal Justice Committee today. Specifically, we are in support of:

- **Int 625**: a bill that would ensure TGNCNBI people are housed as safely as possible while in the custody of the Department of Correction.

- **Int 152** (with suggested amendments): a bill extending the duration of the task force created to address policies related to the treatment and housing of TGNCNBI people in the custody of the Department of Correction. We urge the City Council to make several important amendments to ensure the task force has the information and authority to positively impact how the Department treats TGNCNBI people.

- **Int 1027** (with suggested amendments): a bill requiring the Department of Correction to provide access to gender-affirming items and medical devices. We urge the City Council to strengthen the language providing access to these items because of the Department's longstanding refusal to recognize their necessity for people in custody.

We commend the City Council members who have brought these bills and fought so long for the recognition and dignity of all people. These bills will save lives, provide vital resources, and take an important step towards bringing much needed transparency and humanity into our city jails.

Since 1876, The Legal Aid Society has been committed to providing quality legal representation to low-income New Yorkers. We are dedicated to ensuring that no New Yorker is denied access to justice because of poverty. The LGBTQ+ Law and Policy Unit daily advocates for TGNCNBI people incarcerated in the City jail system and in the State prison system and pursues legislation, policy changes, and litigation to fight for more humane treatment of TGNCNBI people. Mik Kinkead, a staff attorney with the LGBTQ+ Unit, and Dori Lewis, a retired supervising attorney with the Prisoners' Rights Project, have sat on the New York City Board of Correction's Task Force on Issues Faced by TGNCNBI People in Custody (the Task Force) since its creation in 2019. The LGBTQ+ Unit works closely with The Legal Aid Society's Criminal Defense Practice, which serves as the primary defender of low-income people in New York City prosecuted in the State court system. The Unit also frequently collaborates with The Legal Aid Society's Prisoners' Rights Project, which investigates and remedies unconstitutional and unlawful conditions in the City jails and NY State prisons and has continuously advocated for the rights of incarcerated TGNCNBI people.

I. The Department of Correction's Longstanding and Flagrant Disrespect for the Safety and Well-Being of TGNCNBI People in Its Custody

In May 2019, the New York City Council held an Oversight Hearing on the Experience of Transgender and Gender Non-Conforming Individuals in the New York City Jails. That

hearing produced the law ordering the Board of Correction (the Board or BOC) to form the Task Force on Issues Facing Transgender, Gender Non-Conforming, Non-Binary, and Intersex People in the New York City Jails (the Task Force), and it was the first public venue to hear the bill that is on the agenda today as Int. 625, a bill addressing the housing rights of TGNCNBI people. During the five years since, the Department has continuously stated that TGNCNBI people are protected in the jails, that it obeys all federal, state, and city laws as well as their own procedures and practices, and that it does not need any further legislation. But the Department is not following local or federal laws, it ignores its own policies, and it consistently leaves TGNCNBI people to fend for themselves in the city jails, with disastrous consequences.

Following the May 2019 hearing, the City Council called upon the Board to convene the Taskforce, an appointed volunteer group of legal, medical, and cultural experts on TGNCNBI identities and experiences with prison and jail systems, with the goal of creating a cooperative dialogue aimed at protecting TGNCNBI people in custody. But the Department has consistently stonewalled any suggestions, progress, or collaboration with the Task Force. The Department is so combative and at times overtly transphobic in these meetings that members have decided we cannot in good conscience recruit any more TGNCNBI-identifying members to the Task Force. Moreover, as recently as the September 2024 Task Force meeting, the Department affirmed that, despite two years passing since the first published Task Force Report, no steps have been taken to integrate the extensive recommendations into better systems for intake, housing, access to medical devices, or general cultural knowledge. In fact, initiatives such as the DOC Officers Pride Ambassadors and the wearing of pronoun pins have been ended.¹

One example clearly illustrates the Department's failure to work cooperatively with the Task Force, specifically the Department's refusal to modify its policy about how people are assigned to gender-specific intake units. DOC Directive 4498-R provides that a person must be housed at intake according to the sex marker on a form called the securing order. The securing order is a form produced by the Office of Court Administration compiled through reviewing the rap sheet of the individual and their files with the Office of Criminal Justice Statistics, the New York Police Department, and the criminal complaint. At § IV(B)(2)(e)(i), the Directive reads, "[i]nmates with securing orders that indicate male shall start their custody at a male housing facility." The Department, which has the authority to change this language, has had five years in which to change this provision and provide that transgender women misidentified as male do not need to undergo the intake process in a men's facility. Yet for five years they have not altered this Directive despite the Task Force identifying this as a key area of concern.

It is clear that the Task Force, in its current iteration, is not sufficiently empowered to make the necessary changes in the Department and that the Department will not voluntarily initiate the changes contemplated in the three bills on the agenda today. The City Council must directly act to protect TGNCNBI people in custody by passing Int. 625, Int. 152, and Int. 1027.

¹ The DOC still touts these programs on their website, yet they have informed the Task Force that these initiatives have stopped. See <https://www.nyc.gov/site/doc/media/doc-launches-new-lgbtqia-initiatives.page> (last visited September 25, 2024).

II. It is Beyond Time to Pass Int. 625 and Ensure Safe Housing and Due Process for TGNCNBI New Yorkers in Custody

The Legal Aid Society urges the immediate passage of Int. 625. This bill would finally clarify that TGNCNBI people have the right to be housed in jail consistent with their gender identity and align the law that applies to jails with existing human rights protections under New York City and State law. While the Department claims that it makes timely, individualized decisions about how to house people to maximize their safety, this claim is belied by the data and by the experiences of our clients. It is beyond time for New York City to enact this crucial bill.

The Legal Aid Society emphasizes that it is *beyond* time to pass Int. 625. This bill was originally heard in May 2019 at an Oversight Hearing on the Experience of Transgender and Gender Non-Conforming People in the New York City Jails², and The Legal Aid Society, as well as multiple other organizations across New York City, strongly endorsed the intent behind it.³ The bill was heard again in January 2023 at the Oversight Hearing on the Report of the Taskforce on Issues Facing TGNCNBI People in New York City Jails and a group of over 14 City and State organizations endorsed the bill with necessary amendments.⁴ All of those amendments have now been integrated and it should no longer be necessary for TGNCNBI community members and advocates to relive and repeat – yet again – their terrifying experiences while incarcerated, especially when the Department itself refuses to have the basic decency to listen. At both prior hearings, representatives of the Department left the hearings before any of the directly impacted people or their loved ones were able to testify. The Department did not stay to hear Legal Aid testify that in 2022 only 20% of Legal Aid’s clients who requested gender-aligned housing were allowed to transfer and remain in the Rose M. Singer Center (RMSC), where women in custody are housed. They did not stay and hear the in-person live testimony provided by a woman on her experience of being held in protective custody in a men’s jail where a cisgender man was able to open her cell door and come inside to assault her. They did not hear any of the testimony from currently incarcerated TGNCNBI people read by volunteers into the City Council record. The Department ignores these abuses; the City Council must act immediately to stop them from happening.

² The agenda and minutes for the May 1, 2019 Oversight Hearing on The Experience of Transgender and Gender Non-Conforming Individuals in New York City Jails is available at <https://legistar.council.nyc.gov/MeetingDetail.aspx?ID=690844&GUID=7852E69B-8E40-44B9-A974-72D4C6DC5A02&Options=info&Search=transgender>.

³ Testimony of The Legal Aid Society for the May 1, 2019 Oversight Hearing on The Experience of Transgender and Gender Non-Conforming Individuals in New York City Jails is attached as Exhibit 1.

⁴ Testimony of The Legal Aid Society for the January 25, 2023 Hearing on the Task Force Report Update and TGNCNBI Individuals in Rikers is attached as Exhibit 2. The testimony in support of Int. 625 in its current form submitted by nine members of the task force and Black and Pink NYC, The Bronx Defenders, Brooklyn Defender Services, Center for Alternative Sentencing and Employment Services (CASES), The EAC Network, Equality New York, Exodus Transitional Community, Exponents, The Fortune Society, Gender Equality New York, Inc. (GENY), The Lesbian, Gay, Bisexual, and Transgender Community Center, The Legal Aid Society, Neighborhood Defender Services of Harlem, New Alternatives for Homeless LGBT Youth, NEW Pride Agenda, New York County Defender Services, The Osborne Association, and Women’s Prison Association is attached as Exhibit 3.

Int. 625 is Necessary to Align the Behavior of the Department of Correction with Existing Human Rights and Constitutional Law

Throughout the state of New York, a transgender, nonbinary, or intersex person has the right to self-determine where they would feel safest in any sex-segregated space such as a gym locker room, a homeless shelter, or employee changing rooms.⁵ The law explicitly recognizes that TGNCNBI people have a right to be called by their affirming names whether they have had a legal name change or not, to be called by their affirming pronouns, to equitably access bathrooms that affirm who they are, and to self-determine where in a sex-segregated space they might be safest.⁶

New York State and New York City have publicized these laws and how proud they are to be sanctuary spaces for TGNCNBI people fleeing persecution from within the United States and abroad.⁷ New York City specifically capitalizes on being the site of Stonewall – a revolt and riot against corrupt police raids of gay and transgender bars during a time when both crossdressing and same sex sexuality were criminalized.⁸ Yet once a TGNCNBI person interacts with police, the court system, or the city jails, the City and the State continue to insist that these laws no longer apply, that human rights do, in fact, stop at the holding cell gates, and that any affirmation of New York as an LGBTQ+ affirming city is meant only to monetize and capitalize our identities, not to protect the community. This treatment is unacceptable. New York City has

⁵ Exec. Law § 296; N.Y.C. Admin. Code § 8-107; Mayor’s Exec. Order No. 16 (Mar. 7, 2016). These laws ensure that people can access gender-segregated spaces consistent with their gender identity or expression. *See* Guidance on Protections from Gender Identity Discrimination under New York State Human Rights Law (State Division of Human Rights, Jan. 29, 2020); Legal Enforcement Guidance on Discrimination on the Basis of Gender Identity or Expression (City Commission on Human Rights, Feb. 15, 2019).

⁶ *Id.*

⁷ In June 2023, Mayor Adams released a press release regarding his executive order protecting access to gender-affirming care, noting that it “Reaffirms NYC as National Leader and Supporter of LGBTQ+ Rights During Pride Month.” *See* Press Release, Office of the Mayor, *Mayor Adams Signs Executive Order Protecting Access to Gender-Affirming Health Care in New York City* (June 12, 2023), available at <https://www.nyc.gov/office-of-the-mayor/news/407-23/mayor-adams-signs-executive-order-protecting-access-gender-affirming-health-care-new-york-city>. In June 2024, Governor Hochul stated that, “When’s there’s assaults on LGBTQ+ rights all across America, we are the vanguard. We are the fighters.” Press Release, Governor’s Office, *Governor Hochul Delivers Remarks at The Stonewall National Monument Visitor Center Grand Opening Ceremony* (June 28, 2024), available at <https://www.governor.ny.gov/news/video-audio-photos-rush-transcript-governor-hochul-delivers-remarks-stonewall-national-0>; *see also* New York City Council, *Video Celebrating Stonewall’s 50th Anniversary* (June 24, 2019), available at <https://council.nyc.gov/news/2019/06/24/stonewall-50th-anniversary/>.

⁸ *See id.*

one of the highest populations of TGNCNBI people in the US⁹ and TGNCNBI people everywhere are policed and surveilled at alarming rates.¹⁰

The data demonstrates unequivocally that TGNCNBI people are denied their rights at the jailhouse door, despite the danger and violence rampant in DOC facilities and all carceral settings. The Legal Aid Society submitted a FOIL request in March 2023 for the Department’s housing determinations when someone requested gender-aligned housing or the Special Considerations Unit (the SCU, a voluntary unit) in RMSC, the women’s jail. While much data was redacted, we did receive information that, for the first seven months in 2024, 132 people identified as new applicants¹¹ have filled out the poorly named “Special Considerations Housing Unit” form – the form to request gender-aligned housing *and* housing within the SCU. We know that, of the 132 requests, 65 were denied and 3 individuals were discharged before a decision was made. Out of 129 individuals for whom a decision was made, 50% of new applicants were denied.¹² In almost all cases the denial reason listed is “a review of your current housing needs, infraction history, conviction history and incident history” or “a review of your current housing needs, classification and custody level.” In other words, DOC is relying on a variety of non-specific and discriminatory bases to deny safe and appropriate housing to people without properly weighing the safety interests of the person.¹³

This transphobia and discrimination are also apparent because the Department frequently disciplines transgender people by involuntarily removing them from gender-aligned facilities. According to information from a recent FOIL request, DOC involuntarily moved six transgender women from women’s to men’s housing during the period of January to July 2024 because of “Person in Custody Behavior.” In 2023, DOC moved twenty-four people from gender-aligned housing due to “Inmate/Inmate fight” or “[Person in custody] behavior.” In effect, these numbers show that DOC disciplines transgender people by forcing them into a facility where they are daily misgendered and subject to high rates of sexual abuse and harassment. This fact is further confirmed by the Request for Reconsideration Form, which an individual can fill out 90 days

⁹ See generally *How Many Adults and Youth Identify as Transgender in the United States?* (Williams Institute June 2022), available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Pop-Update-Jun-2022.pdf>; *LGBT Adults in Large US Metropolitan Areas* (Williams Institute Mar. 2021), available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/MSA-LGBT-Ranking-Mar-2021.pdf>.

¹⁰ *Unjust: How the Broken Criminal Justice System Fails Transgender People* (Movement Advancement Project & Center for American Progress May 2016), available at <https://www.lgbtmap.org/file/lgbt-criminal-justice-trans.pdf>.

¹¹ “New Applicants” may refer to people who have never filled out the SCU form ever, or people who have not completed it during a specific incarceration. While the terminology is not clear, we know from our clients that people previously determined to be approved for gender-aligned housing need to request this housing again upon each incarceration.

¹² We know that the Department counts as “approved” individuals who were approved prior to discharge but never moved before discharge, thus padding their already small approval numbers.

¹³ By making decisions on this basis, DOC is not only out of compliance with New York Human Rights Law, it is also not compliant with its own policies. See DOC Directive 4498R-A at IV(B)(1)(a) (“Persons shall be housed in the facility consistent with their gender identity, absent overriding concerns *for the detained person’s safety.*”).

after being removed from women’s housing to request to move back. The form provides a section where the person is asked to expand on the following statement: “My behavioral issues have improved. I have not received an infraction or involved in an incident in ___ months.”¹⁴ Clearly, the Department is relying on factors that have nothing to do with “concerns for the detained person’s safety,” the standard set forth in the applicable DOC directive.¹⁵ Such punishment would never be imposed on a cisgender person.

The Department similarly discriminates against nonbinary people.¹⁶ In its data for quarter three of fiscal year 2024, 100% of nonbinary people were denied housing in the SCU and 78% were denied applications for gender-aligned housing.¹⁷ In their most recent publication of data, nonbinary people had an 80% denial rate for gender-aligned housing and an 80% denial rate for the SCU.¹⁸ Clearly, the Department is not housing nonbinary people in the SCU or where they would feel safest.

DOC’s treatment of TGNCNBI people is not only inconsistent with New York City and State Human Rights Law, it is also constitutionally impermissible. No cisgender woman would be forced to house with cisgender men because of her “current housing needs, classification, custody level, infraction history, conviction history, and incident history.” This treatment of transgender women differently from cisgender women violates the Equal Protection Clause. As one federal court explained while rejecting the argument that a violent record should require a transgender woman to be housed in a men’s jail, “female inmates can be equally aggressive and violent . . . [y]et, no one would suggest those women should be housed in the men’s division.”¹⁹ The United States Department of Justice has recognized that the Eighth Amendment, which prohibits cruel and unusual punishment, requires placement in a gender-aligned facility when necessary to provide reasonable safety.²⁰ Nevertheless, DOC wholly disregards our client’s identities and experiences of sexual assault, violence, and discrimination in its assessments.

¹⁴ This form is attached as Exhibit 4.

¹⁵ See *supra* note 13.

¹⁶ The DOC reports are *available at*: <https://www.nyc.gov/site/doc/about/tgnbi-reports.page>.

¹⁷ It is not clear what the Department means by gender-aligned housing for nonbinary people. We presume this refers to nonbinary people being asked to choose between men’s and women’s housing, making a choice, and 75% of the time being denied that choice.

¹⁸ See *supra* note 16.

¹⁹ *Hampton v. Baldwin*, 2018 WL 5830730, at *12 (S.D. Ill. Nov. 7, 2018) (applying heightened scrutiny when corrections officials treat transgender women differently than cisgender women); see also *Doe v. Mass. Dep’t of Corr.*, 2018 WL 2994403, at *9-10 (D. Mass. June 14, 2018) (same); *Tay v. Dennison*, 457 F. Supp. 3d 657, 680-81 (S.D. Ill. 2020) (same).

²⁰ United States Department of Justice Statement of Interest in *Diamond v. Ward*, 20-v-00453 (M.D. Ga. Apr. 22, 2021) (Doc. No. 65).

Int. 625 ensures TGNCNBI people retain their human right to have their gender identity respected by requiring the Department house people consistently with their gender identity except when there is clear and convincing evidence that such a person presents a current danger of committing gender-based violence against others. The Department retains the ability to make individualized determinations and deny housing for this reason, but it must do so in writing and afford ample due process to the individual by providing a written statement of its reasons and a meaningful appeal procedure. In addition to these due process protections, Int. 625 also adds in protections to ensure that people are sent to the correctly gendered intake facility upon initial detention by the Department rather than spending days in the wrong facility where they are likely to be subjected to extreme harassment and violence.

TGNCNBI People Experience Significant Physical and Mental Harm Because of DOC's Current Practices

Both the data and the experiences of our clients demonstrate the extraordinary risk of physical abuse and sexual assault faced by transgender people, in particular transgender women in men's units, while incarcerated.²¹ This treatment has long-term deleterious effects on a person's physical and emotional well-being.²²

A recent example demonstrates why Int. 625 is urgently needed. In February, The Legal Aid Society represented a 60+ year-old transgender woman who was living in a women's shelter for several months and was on parole. She experienced a warrant violation and, despite having been held at RMSC as recently as 2019, when she was returned to the Department on this violation, she was placed at EMTC, the men's intake jail.

²¹See Allen J. Beck, *Sexual Victimization in Prisons and Jails Reported by Inmates 2011-12: Supplemental Tables: Prevalence of Sexual Victimization Among Transgender Adult Inmates* (Bureau of Justice Statistics, Dec. 2014), available at https://www.bjs.gov/content/pub/pdf/svpjri1112_st.pdf; see also Jaime M. Grant et al., *Injustice At Every Turn: A Report of the National Transgender Discrimination Survey* 6 (2011), available at https://www.transequality.org/sites/default/files/docs/resources/NTDS_Report.pdf; Valerie Jenness et al., *Violence in California Correctional Facilities: An Empirical Examination of Sexual Assault 2* (University of California, Irvine, June 2007), available at <http://ucicorrections.seweb.uci.edu/files/2013/06/BulletinVol2Issue2.pdf> (finding that 59% of transgender women housed in men's prisons had been sexually abused while incarcerated and that transgender people were 13 times more likely to be sexually assaulted than cisgender people in prison). A recent report on the treatment of TGNCI people in the New York State prison system found that 91% of the 44 respondents reported at least one form of physical assault while incarcerated and 75% of the 44 respondents reported at least one incident of sexual violence by corrections officers. The Sylvia Rivera Law Project & Take Root Justice, *It's Still War in Here: A Statewide Report on the Trans, Gender Non-Conforming, Intersex (TGNCI) Experience in New York Prisons and the Fight for Trans Liberation, Self-Determination, and Freedom* 25, 27 (2021), available at <https://takerootjustice.org/wp-content/uploads/2021/06/Its-Still-War-In-Here-1.pdf>.

²² See Leah Drakeford, *Correctional Policy and Attempted Suicide Among Transgender Individuals*, 24 *Journal of Correctional Health Care* 171, 172 (2018); Ethan Rogers et al., *The Disproportionate Mental Health Burden Among Incarcerated Transgender and Gender Diverse People*, 29 *Journal of Correctional Health Care* 39 (2023). A recent report on the treatment of TGNCI people in the New York State prison system found that 51% of the 44 respondents attempted to harm themselves while incarcerated and 34% had tried to actively take their own life. Respondents connected these efforts to treatment they received while in the New York State prison system. *It's Still War in Here*, *supra* note 20, at 41-42.

Her shelter support team and Legal Aid reached out to DOC multiple times over the course of the weekend attempting to secure her immediate transfer to RMSC. On the Tuesday of the following week, five days following her return to custody, we heard that she was approved for the transfer.²³ That same day, before she could be transferred, she was bailed out of the men’s jail. This woman – whom DOC knew well and had previously been housed at RMSC, known to her parole officer as a woman, who lived in a women’s shelter, who was over 60 and changed her birth certificate, benefits card, and more to reflect the correct gender identity and feminine name – was held for five days and four nights in the men’s intake jail. She would be here in-person to testify today but she told Legal Aid that she did not want to give the Department any more of her time; they had already taken enough.

Even when a client is eventually approved for housing in RMSC, they experience physical and sexual assault during the days or even the hours they wait for DOC to make a decision on their placement and/or while they wait for DOC to effectuate an approved transfer. One Legal Aid client was approved to be moved from a men’s jail to a women’s jail. In blatant violation of her right to privacy, officers told her in a public area of a men’s unit that she would be transferred to RMSC, but not until a COVID quarantine was over. She was subsequently raped in the shower of the men’s unit before she was transferred.

Int 625 ensures this would not happen to other women. It specifically addresses the gap between the time a person is transferred into the Department’s custody and when the Department makes a decision about an individual’s gender-aligned housing request.²⁴ Presently, even if they or their attorney immediately requests a transfer, our clients are held in intake spaces often for several days and sometimes weeks before being interviewed relating to that request. Significantly, these intake units are *not* cells. They are shared spaces where people have no means of separating themselves from others. As recently as March 2023, it was widely reported that the Department was holding people over 24 hours in these shared unhygienic spaces without access to showers, toilets, or phones. Although the Department has publicly recognized that intake is a “crucial time” and that steps must be taken to rectify incorrect intake decisions,²⁵ as of August 2024, the Department has confirmed that “nothing has changed” in their practices.²⁶ It is clear we cannot wait for the Department to take action on this issue.

²³ We do not know, but assume, that her approval is counted as one of the “approvals” in the FOIL results. However, it should be noted that, though approved, she never set foot in the women’s jail. Therefore, the number of “approvals” should be seen with some skepticism as to whether they in fact resulted in gender-aligned housing.

²⁴ In our 2023 testimony, Legal Aid mentions a woman who was approved for transfer yet the Department took *two weeks* to transfer her to RMSC. See The Legal Aid Society’s January 25, 2023 testimony, *supra* note 4.

²⁵ NYC Department of Correction, *Response to TGNCNBI Task Force Report* (Nov. 14, 2022), available at <https://www.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/DOC-TGNCNBI-Task-Force-Report-Response-11-14-22.pdf>.

²⁶ This confirmation should be noted in the minutes of the August 2024 Task Force meeting when they are posted at <https://www.nyc.gov/site/boc/jail-regulations/task-force-on-issues-faced-by-tgnpci.page>. Those minutes were not posted by the date of the submission of this testimony.

What happened to these Legal Aid clients has happened again and again and again to transgender women in particular. Of our clients denied gender-aligned housing, all have reported sexual assaults, other forms of violence, and harassment while in men's units. This is nothing short of a crisis and demands immediate action.

Passage of Int. 625 Would Align New York City with Other States and NY Counties

Passage of Int. 625 would bring New York City into alignment with 17 New York State counties, 6 states and Washington D.C., as well as three other countries. The handout that the Trans Prisoner Rights Coalition, of which Legal Aid is a member, created for the similar state bill is attached to our testimony.²⁷ For instance, Steuben County (as a result of a lawsuit) adopted a policy requiring presumptive placement of people based on their gender identity and prohibiting a denial of presumptive placement because of the (i) anatomy or genitalia of the person, (ii) the sexual orientation of the person, (iii) the complaints of cisgender people who do not wish to be housed with a non-cisgender person, or (iv) a factor present among other people in the required housing unit, such as a violent criminal or disciplinary record.²⁸ By passing Int. 625, New York City will have practices consistent with those of other New York Counties and consistent with its purported values of respecting LGBTQ+ rights.

III. Without the Passage of Int. 152, with Important Proposed Amendments, the Task Force Cannot Fulfill its Obligations to TGNCNBI New Yorkers

The Legal Aid Society supports the passage of Int. 152, which will extend the Task Force and provide it with additional authority to request information from the Department. However, we urge the Council to adopt several important amendments to ensure that the Task Force can fulfill its obligations to TGNCNBI New Yorkers. These amendments, attached, include (i) additional support from the Board of Correction (BOC), (ii) the inclusion of TGNCNBI people who are currently incarcerated, (iii) routine tours of the facilities most commonly housing TGNCNBI people, (iv) increased provision of information and involvement in policy reform, and (v) a requirement that participants have a meaningful working knowledge on cultural, medical, and/or legal rights of TGNCNBI people.²⁹ As set forth in detail below, these amendments are necessary to counteract the stonewalling and disrespect the Task Force has been contending with from the Department.

By way of background, the Task Force was formed following the May 2019 Oversight Hearing on the Experience of Transgender and Gender Non-Conforming Individuals in the New York City Jails. The Legal Aid Society was honored to receive two appointments to this Task

²⁷ This document is attached as Exhibit 5. "GIRDS," which is referenced at the top of the document, refers to the Gender Identity Respect, Dignity, and Safety Act (S2860/A709A), which is a state bill that would provide similar protections to those in Int. 625 to TGNCNBI people incarcerated in the State prisons and other local county jails.

²⁸ Settlement Agreement in *Faith v. Steuben County*, Index No. E2019-1208CV (N.Y. Sup. Ct.) (July 2020), available at https://www.nyclu.org/uploads/2020/08/2020-07-22_faith_final_settlement_agreement_redacted.pdf.

²⁹ The proposed amendments are attached as Exhibit 6.

Force and were co-authors on the August 2022 Report (the Report), a detailed report outlining the Task Force’s recommendations for addressing numerous concerns relating to incarcerated TGNCNBI people which both Legal Aid appointees spent significant time co-writing with others.

The Task Force initially had 22 experts, 9 of whom self-identified as TGNCNBI individuals. By August 2022, this had dropped to 13 members, only three of whom were TGNCNBI identified. At the moment, the Task Force has increased in numbers again, but we are crucially missing the knowledge and experiences of intersex individuals and TGNCNBI people with lived experiences in the NYC jail system.³⁰

Most significantly, the initial promise of the Task Force – the convening of experts in TGNCNBI identities and culture, medical care needs, and legal rights – has been thwarted at almost every turn by government agencies unwilling to conduct themselves in good faith. Interactions between Task Force members and the Department and Correctional Health Services (CHS) taken from the minutes of the meetings highlight the need for the passage of Int. 152 with amendments.³¹ These interactions are rife with transphobia and disrespect for the Task Force members volunteering their time and expertise and illustrate why the City Council must provide the Task Force with the strength and resources to make a positive difference.

DOC Refuses to Share Data and Information

It is essential that Int. 152 be amended to include stronger provisions requiring the Department to share information and data because the Department has repeatedly refused to share information with the Task Force, purposely hindering the Task Force from undertaking its duties. Specifically, in January 2022, the Department’s representative told the Task Force, “as I’ve stated before, we will not be sharing data with the Task Force.” Since that development, the Department has refused to volunteer any information, provide written answers to questions, or share relevant documents or policies.

Due to this consistent refusal to share any information, including redacted and un-identifiable numbers, the Public Advocate proposed legislation mandating reporting on housing determinations, which was passed into law in 2023 (Local Law 115-2023).³² Nevertheless,

³⁰ Notably, it was the efforts of non-governmental members of the Task Force that increased the staffing. Volunteer members unassociated with any agency independently identified experts and reached out to ask them to join the Task Force. Neither the Board nor any government agency assisted with this project.

³¹ Minutes are taken by volunteer members, circulated for corrections or redactions, and then published on the BOC’s website. Every member has ample opportunity to correct or redact the minutes, and we take a default position of respecting a correction or redaction rather than arguing against it. Despite this, the Department has never participated in editing the notes at any time. Since the loss of our permanent BOC appointee in the fall of 2023, the Board has also not participated in correcting or redacting the minutes. The failure to engage in this process is important because DOC has recently begun to refute the notes of the Task Force despite not participating in the correction process.

³² The overuse of redactions continues to be at issue even in this mandated reporting. Due to the allegedly lower numbers of transgender men, nonbinary masculine people, and intersex people of all gender identities, these

despite the City Council law requiring reporting, the first report was months late, not immediately published on the DOC's website, and, when the Task Force asked if it wanted to reflect at all on the process of this reporting, the Department replied that "the report that is out there is the report that is out there," and it had "nothing further to say about the report [...] it is what is outlined in the law." When the Task Force asked about the formula used to determine the Average Daily Population and how it had resulted in some percentage points instead of whole numbers, the Department responded that the formula used was "not required to be shared by law" and therefore would not be shared. In short, the number of TGNCNBI people in custody, where they are housed, if that housing is voluntary or involuntary, and other important questions critical to the Task Force performing its duties is only being shared due to the passage of a law and the combined efforts of Task Force members and City Council Compliance staff asking when this data would be produced. When it was finally produced, the Department's representatives did not even bring the report to the Task Force. Task Force members had to independently find this report and bring it to the meeting.

The Department's representative has repeatedly told Task Force members to use the Freedom of Information Law (FOIL) to request any Directives, guidance, teletypes, data points, or trainings. Having to use FOIL creates extensive delays in accessing needed information and defeats the very purpose of the Task Force. The Task Force has had to FOIL all the substantive documents and information it needs, including the trainings specific to LGBTQ+ identities and gender-responsive trauma-informed intervention, descriptions and job postings of the LGBTQIA+ Initiatives Unit, teletype instructions on binders, pronouns, and names, and all data concerning grievances, housing denials, housing reconsiderations, and involuntary housing reassignments. In short, there will not be a single piece of documentation in the upcoming 2024 Report that the Department voluntarily provided to us.

In addition, Correctional Health Services refused to provide the Task Force with their updated policy on providing gender-affirming care; once again, Task Force members had to FOIL it. Without having done this, the Task Force would not have learned that multiple pages of instructions had been removed from the policy, leaving it more vague and less helpful to any TGNCNBI person pursuing this care.

DOC Refuses to Share Updates or Collaborate in Good Faith

The Department not only refuses to provide any data or information, it also refuses to cooperate with the Task Force on any changes or reforms, including even positive steps that it decides to undertake. In June 2024, as a result of a FOIL request, the Task Force received a Teletype that DOC had twice-daily announcements and postings to all officers that the Department must use names and correct pronouns when known. This was first posted in August 2021, and yet in three years of monthly meetings the Department never shared this information with the Task Force. If The Legal Aid Society had not submitted a FOIL request for relevant documents on policies relating to TGNCNBI people, the Task Force would have never known of this actual positive and affirming step taken by the Department.

categories are fully redacted in all reporting. Therefore, we have almost no information as to the housing needs and treatment of this population.

Another example is when, in December 2023, the Task Force was told that, due to a City hiring freeze, no additional staff would join the LGBTQIA+ Initiatives Unit (formerly 4 people, but at the time consisting only of the Director). When the Task Force asked again in April 2023, the Department shared it was in the process of interviewing applicants. The Department never showed the Task Force the job descriptions nor shared that the hiring freeze had been lifted. When the Task Force asked to review the job descriptions, the Department replied with simple instruction: FOIL them.

These are just two examples of *positive* action the Department took that, had Task Force members not asked, would never have been shared. Again and again, the meeting minutes, available on the Board of Correction's website, reflect Task Force members saying, "if you do not communicate with us, we will not know." And the Department consistently does not respond to these statements nor change their practice.

The Department has also refused all offers by members of the Task Force to provide or connect the Department with free services to assist in the development of policies. Task Force members have repeatedly offered to have the Department meet with legal experts from around the nation on how jail and prisons systems from California to New Jersey, and the nearby counties of Broome and Steuben, have enacted policies that closely resemble those in Int. 625. The Task Force has offered these free legal consults multiple times and have consistently been told that New York City is "too unique" to speak to these other jurisdictions.

Likewise, when it was revealed that the Department was having internal discussions on whether gender-affirming medical devices including wigs, gaffs, and other items contemplated in Int. 1027 should be allowed in, Task Force members offered to share documentation, presentations, and expert opinion on these items. We were told that the DOC would not be "taking separate documents from [the Task Force] or considering separate presentations - everything should be put in the Report." In short, any request to collaborate or support the Department has been dismissed, despite these offers being made by TGNCNBI people who are not being compensated for this labor. The Task Force is volunteering to make the Department better, yet the Department refuses to engage in good faith.

This is frustrating to say the very least. It is especially frustrating because this should not be an adversarial point. Unlike topics where there may be spirited debate or differences in opinions amongst reasonable people, refusal to share the positive is behavior more fitting for a playground than a City Council Task Force. For these reasons, it is essential that Int. 152 be amended to require that any reforms DOC plans to make with respect to its treatment of TGNCNBI people must be shared with the Task Force and it must be given an opportunity to provide feedback.

The Task Force Lacks Material Support Needed to Succeed and Lacks Experts from Key Government Agencies

Amongst the proposed edits to Int 152 are provisions requiring more robust material support for the Task Force, a need detailed in the Task Force's 2022 Report and its forthcoming 2024 Report. The City Council has called upon the Board of Correction to convene this Task

Force, yet the Board has not prioritized the Task Force nor supported it with staff or resources throughout the last year. While we acknowledge that the Board lacks adequate funding for its important work, its refusal to facilitate, take minutes, provide translators, assist with Report finalization, graphics, edits, or promotion has placed an undue burden on the volunteer Task Force members. The suggested amendments to Int. 152 would provide for all of these supports.

As an example of the Board's failure to support the Task Force, the Board has sent individuals to Task Force meetings who are unaware of decades old policies relating to TGNCNBI people. At a February 2024 meeting, the Board's representative stated that only people held at RMSC had access to bras and transgender women held in men's jails could not access bras. This has not been the case for close to a decade. In that same meeting, the BOC representative stated that any underwear specific to TGNCNBI people would have to be specifically added to the Minimum Standards in order to require that the Department pay for it. Since then, the BOC has sent a new representative who has unequivocally stated that it is the Board's position that binders and other gender-affirming underwear are underwear and the Department is required to buy them and make them available for people in custody. While the Board eventually corrected both of these errors, without other independent legal experts in the room, the very body that convenes the Task Force was at risk of providing inaccurate and harmful advice.

This type of harmful and disrespectful behavior has been repeated by many of the officials assigned to the Task Force by other government agencies. DOC representatives have refused to share whether they have professional qualifications for, or personal expertise on, TGNCNBI issues. To illustrate, lack of competent knowledge has meant that DOC representatives consistently deny that something such as immediate access to menstruation products is a TGNCNBI issue. CHS, for its part, has consistently stated that no medical provider has the resources to attend the Task Force meetings. Its lack of participation has created several issues. For instance, the Task Force asked CHS why it would not advocate for gender-aligned housing on behalf of its patients when the American Medical Association and World Professional Association for Transgender Health (WPATH) consider housing TGNCNBI people in alignment with their gender identities as part of the correct response to a Gender Dysphoria diagnosis.³³ CHS was unable to respond because they do not have a medical expert on the Task Force, but instead a Communications expert.

For these reasons, we urge the Council to amend Int. 152 to require appointees to the Task Force have "meaningful working knowledge on cultural, medical, and/or legal rights of

³³ Press Release, American Medical Association, AMA Urges Appropriate Placement of Transgender Prisoners (June 11, 2018) ("The AMA urges that housing policies be changed to allow transgender prisoners to be placed in correctional facilities that are reflective of their affirmed gender status."), available at [https://www.ama-assn.org/press-center/press-releases/ama-urges-appropriate-placement-transgender-prisoners#:~:text=The%20AMA%20urges%20that%20housing,administrative%20segregation%20or%20solitary%20confinement](https://www.ama-assn.org/press-center/press-releases/ama-urges-appropriate-placement-transgender-prisoners#:~:text=The%20AMA%20urges%20that%20housing,administrative%20segregation%20or%20solitary%20confinement;); E. Colman et al., *Standards of Care for the Health of Transgender and Gender Diverse People, Version 8*, International Journal of Transgender Health 23 (2022), available at <https://www.tandfonline.com/doi/pdf/10.1080/26895269.2022.2100644> (WPATH Standards). Gender dysphoria refers to the psychological distress that results from an incongruence between a person's sex assigned at birth and their gender identity. American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision* (2022).

transgender, nonbinary, gender nonconforming, and/or intersex individuals.” Without this amendment, those who have this expertise spend significant time during meetings explaining stereotypes and other disinformation about TGNCNBI individuals at significant cost to themselves and the work of the Task Force.

The Task Force Has No Clear Way to Communicate with TGNCNBI People in the New York City Jails

One of the most powerful and crucial parts of the Local Law that created the Task Force is the requirement that, when practicable, individuals who identify as TGNCNBI and who are currently held in the SCU be allowed to attend meetings. One representative attended meetings at the end of 2019. Since then, no person who is held within the NYC jails has attended these meetings. Despite meetings being held on a monthly basis that are scheduled in advance, neither the Department nor the Board has made an effort to bring in anyone for almost five years of meetings. Thus, since the beginning of 2020, the Task Force has operated without any direct reporting from TGNCNBI People in the NYC jails.

The Department has rejected all of the Task Force requests and ideas for including incarcerated people. For instance, it refused requests to place posters in the SCU informing individuals of the Task Force and to put information on the tablets available to incarcerated people informing them of the January 2023 City Council hearing on the experiences of TGNCNBI people in DOC custody and how they might participate. In a recent September 2024 meeting, when the Task Force asked what steps were being taken to ensure that currently incarcerated people could testify at upcoming City Council hearings, the response was there was no such plan being contemplated, and it was not practicable to do so. In short, between the data stonewalling and the participation stonewalling, the Task Force has been unable to hear directly from people on the inside except to the extent that members interact with such people in their own jobs. By amending Int 152 to require the Department take steps to include incarcerated TGNCNBI people and passing it, the Task Force takes a step closer to properly representing TGNCNBI people in the City jails.

The Task Force urges the City Council to pass Int. 152 with the suggested amendments to strengthen the ability of the appointed members to assist the City in making a meaningful difference. Without these important changes, we are simply a rainbow-colored rubber stamp.

IV. With Amendments to Strengthen the Right to Access, The Legal Aid Society Supports Int. 1027 Because Gender-Affirming Medical Devices Saves Lives

The Legal Aid Society was pleased to see that Int. 1027, recently introduced by Council Member Hudson, is included today in this hearing. The heart of the bill, ensuring that the gender-affirming items TGNCNBI people use every day to affirm identities and to mitigate feelings of dysphoria, anxiety, and depression, are allowed in the New York City jails for both workers and those held in custody is sensible, medically sound, and will improve not just the lives of people in custody and at work but the experiences of re-entry that help to lower recidivism and strengthen community ties.

Neither the Task Force nor The Legal Aid Society have had sufficient time to offer specific amendments to the language of Int. 1027, but we look forward to being able to do so and to continue to work with City Council to strengthen the bill. There are two areas of concern within the bill itself and an area of expected push-back from the Department that Legal Aid would like to briefly address.

DOC Must Not Be Allowed to Limit Access to Medical Devices or Limit Definitions of “Gender-Affirming”

The Legal Aid Society recommends that Int. 1027 be amended to strengthen the right to access gender-affirming items. Currently, under the language of the bill, the Department is only required to provide access “consistent with other requests for accommodations pursuant to medical need;” however, our long history of advocating with the Department demonstrates their lack of willingness to recognize that these items are medically necessary and treat them consistent with other types of medical devices.

In particular, access to wigs has been a hot topic of conversation for the Task Force. Despite offers to bring in experts on Gender Dysphoria (of which there are none in the government agencies represented on the Task Force), the Department has staunchly declared that wigs “will not be allowed” into DOC facilities. When questioned as to whether CHS would ever prescribe a wig as part of cancer or alopecia treatment, the Task Force was informed that prescription of a wig could be contemplated. This disparity between CHS and DOC’s understanding of medical devices is at the heart of our concern that, despite the bill, TGNCNBI people will continue to not have access to the items they need.

In addition, we would be remiss not to note that even cisgender people seeking more commonly known medical devices such as walkers or canes already wait overly long times to receive the “approved” versions that DOC allows into facilities. Individuals who rely on eyeglasses for sight often go months without DOC-approved glasses due to delays in orders and approvals. The Legal Aid Society expects that gender-affirming items might face similar waitlists, in addition to a high-number of denials, and urges the City Council to investigate the entire area of medical devices and the roles that both DOC and CHS play in prescribing such devices and allowing consistent access to them.

The second area of concern for Legal Aid is that the definition and list of gender-affirming items listed in § 9-168(a) of the bill may grow as more products are created and more needs understood. Editing this list to include the action the item performs may help ensure that, as names for items change, they continue to be allowed into custody. While the bill states that “other similar items or medical devices” should be permitted even if they are not specifically listed, given the Department’s long refusal to permit such items altogether, more specificity will assist in ensuring the Department complies. Likewise, strengthening the definition of what it means to “affirm [] self-determined gender identity” may assist in limiting DOC denials.

CHS Must Take Responsibility for Administering Gender-Affirming Devices in the Jails

In the September 2024 Task Force meeting, CHS stated that it would not be weighing in on the housing determinations of TGNCNBI individuals due to a desire to not “medicalize” identity. CHS is taking this position despite the most recent WPATH standards – the well-established standards of care for the health of transgender and gender nonconforming people – encouraging gender-aligned housing as part of the treatment for Gender Dysphoria (GD).³⁴ Due to this recent interaction, The Legal Aid Society is concerned that CHS might similarly balk at ordering, prescribing, and advocating for gender-affirming devices in the jails.

The area of gender-affirming care is one that has only recently received the main-stream medical focus it deserves. For centuries, TGNCNBI people have been developing their own methods to assist in presenting the bodies they wish to present to the world. It is relatively new for medical professionals to include recommendations on binders (used to compress the chest) and gaffs (used to create flat genitalia) as part of their treatment for GD. Within TGNCNBI communities, individuals have known and shared how these devices alleviate symptoms of depression, anxiety, and gender dysphoria overall, and medical establishments are catching up. While they may not require a doctor’s prescription outside of jail, TGNCNBI people must rely on CHS to prescribe these devices should they enter a jail setting. In a place as highly regulated as the jail system, we cannot rely on cultural competency or “good will” to allow in gender-affirming devices as wide ranging as wigs and extensions to dilators, prosthetics, or binders. Without the participation of CHS, it is unlikely that these devices will be allowed into the jails.

Leading medical establishments have taken the position that full access to the wide spectrum of gender-affirming care *is* part of their ethical duties. Organizations including the American Medical Association have issued statements that gender-aligned housing is part of the GD treatment people in prisons and jails should receive.³⁵ It is fitting that the devices TGNCNBI people need to reduce symptoms of GD be a CHS consideration. No different than a mobility device or eyeglasses, gender-affirming devices improve the healthcare outcomes of TNGNCBI people and allow for navigating the world on their own terms. While CHS’s desire to not medicalize an identity is admirable, the reality is that failure to do so will almost certainly result in TGNCNBI people being unable to access life-saving products in the jail setting.

CONCLUSION

We urge the City Council to immediately act to protect the TGNCNBI community incarcerated in the City jails. By enacting Int. 625 and amended versions of Ints. 152 and 1027,

³⁴ See WPATH Standards, *supra* note 33.

³⁵ American Medical Association Policy H-430.982, *Appropriate Placement of Transgender Prisoners* (2018), available at <https://policysearch.ama-assn.org/policyfinder/detail/transgender%20housing?uri=%2FAMADoc%2FHOD.xml-H-430.982.xml>.

the City can live up to its reputation as the bastion of LGBTQ+ rights and provide to the community the rights and protections that it needs and deserves.

EXHIBIT 1



**New York City Council
Committee on Criminal Justice**

**Oversight Hearing: The Experience of Transgender and Gender
Non-Conforming Individuals in New York City Jails**

**Hearing on Proposed Legislation:
Int. No.1513, No. 1514, No. 1530, No. 1532 & No. 1535
Res. No. 143 & No. 829**

May 1, 2019

Testimony of The Legal Aid Society

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The Legal Aid Society Criminal Defense Practice appreciates the opportunity to submit testimony concerning the experience of transgender and gender non-conforming individuals in New York City jails” and in support of the following bills and resolutions:

Int 1513 - By Council Members Ayala and Kallos - A Local Law to amend the administrative code of the city of New York, in relation to mental health treatment for transgender, gender nonconforming, non-binary, and intersex individuals.

Int 1514 - By Council Members Ayala, Rosenthal and Kallos - A Local Law to amend the administrative code of the city of New York, in relation to requiring access to substance abuse treatment for transgender, gender non-conforming, non-binary, and intersex individuals.

Int 1530 - By Council Members Moya and Kallos - A Local Law to amend the administrative code of the city of New York, in relation to reporting on housing decisions made for transgender, gender nonconforming, and intersex individuals.

Int 1532 - By Council Members Powers and Kallos - A Local Law to amend the administrative code of the city of New York, in relation to housing decisions made for transgender, gender nonconforming, and intersex individuals.

Int 1535 - By Council Members Rosenthal and Kallos - A Local Law requiring the board of correction to convene a task force to address polices related to the treatment of transgender, gender non-conforming, and non-binary individuals in the department of correction.

Res. No. 143 – By Council Member Dromm – A Resolution calling on the New York State Legislature to pass and the Governor to sign the Humane Alternatives to Long-Term Solitary Confinement Act.

Res. No. 829 – By Council Member Powers – A Resolution calling upon the New York State Legislature to pass, and the Governor to sign, S.1343/A.5493, which would reform revocation presumptive release, parole, conditional release, and post-release supervision.

We commend Chair Powers for holding this hearing and providing such vigilant oversight. The timing is apt: last week, DOC gave public testimony to the Board of Correction on the topics addressed in the legislation being considered by the Council today.¹ That testimony shows the Department should fully support these bills, as the legislation simply codifies practices they testified they already follow.

This hearing arises out of the long history of the New York City jails denying individuals safe and appropriate housing consistent with their gender identity. Despite the universal acknowledgement that transgender women in particular are at extraordinary risk of physical and

¹ See Testimony of DOC Commissioner Cynthia Brann and DOC Assistant Commissioner Faye Yelardy, BOC Meeting April 23, 2019, *passim*, available at <https://youtu.be/mP7oWLBz6Y>.

sexual abuse and harassment when confined in male facilities,² for years such housing was the only option.

Following persistent pressure from the advocacy community, the New York City Department of Correction (“DOC” or “the Department”) finally opened the Transgender Housing Unit (“THU”) for transgender women confined in male jails. But their commitment to this reform was shaky: although it is undisputed that THU housing was safer than general population in male facilities, two years ago, DOC threatened to shut down it down. In its stead, the Department proposed opening “vulnerable population” units, but provided no information on what that meant: who would be housed on these units, how people would be screened for housing on them, how they would be staffed, or what would make them different from any other protective custody unit.

Now, after substantial work by the City Council in its oversight role, the Board of Correction (“BOC”), the New York City Human Rights Commission (“HRC”), The Legal Aid Society, and the advocacy community, substantial progress has been made in securing THU housing. The Department has not only retained the THU, but has moved it to the women’s jail, Rose M. Singer Center, last summer. With this move, transgender women can now benefit from programs and property available to cisgender women. The excuses that transgender women could never be housed in a women’s jail without the sky falling were proven wrong. Indeed, the THU at Rose is generally staffed with officers who are respectful in their interactions with incarcerated persons. We receive very few complaints from women housed there. Nonetheless, significant problems in treatment of transgender individuals in the City jails persist, and we are grateful the Council has turned its attention to these issues today.

Current Housing Placements for Transgender and Gender Non-Conforming Individuals

On April 23, 2019, at the BOC Special Hearing about PREA compliance, DOC—for the first time in years—provided some basic information to the public about its transgender housing policies.³

At the hearing, DOC testified that it houses incarcerated people consistently with Mayor’s Executive Order 16, which creates a presumption of housing by gender identity. DOC officials

² See ALLEN J. BECK, SEXUAL VICTIMIZATION IN PRISONS AND JAILS REPORTED BY INMATES 2011-12, BUREAU OF JUSTICE STATISTICS 2 (2014), available at https://www.bjs.gov/content/pub/pdf/svpjri1112_st.pdf; see also JAMIE M. GRANT ET AL., INJUSTICE AT EVERY TURN: A REPORT OF THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY, NATIONAL LGBTQ TASK FORCE 6 (2011) (reporting that 16% of respondents who had been to jail or prison reported being physically assaulted and 15% reported being sexually assaulted), available at http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf; and VALERIE JENNESS, ET AL., VIOLENCE IN CALIFORNIA CORRECTIONAL FACILITIES: AN EMPIRICAL EXAMINATION OF SEXUAL ASSAULT, Irvine: Center for Evidence-Based Corrections, University of California (2007) 3, available at <http://ucicorrections.seweb.uci.edu/files/2013/06/BulletinVol2Issue2.pdf> (finding that 59 percent of transgender women housed in men’s prisons had been sexually abused while incarcerated and that transgender people were 13 times more likely to be sexually assaulted than non-transgender people in prison).

³ See Testimony of DOC Commissioner Cynthia Brann and DOC Assistant Commissioner Faye Yelardy, BOC Meeting April 23, 2019, *passim*, available at <https://youtu.be/mP7oWLBz6Y>.

also stated that they give incarcerated people agency in deciding where they can be safely housed, meaning that transgender men and women are housed in a gender-consistent facility only if they request it, but such requests are honored unless there is a very good reason not to do so. This describes the lynchpin of gender appropriate housing. Unfortunately, they do not reflect the reality experienced by our clients, as we describe below.

At the BOC hearing, DOC testified about the current housing placements for transgender people. These assertions puzzled us. DOC stated that as of April 21, 2019, RMSC housed 16 transgender women in the THU; six transgender women in general population; one transgender woman in new admission housing; and three transgender men in some other non-THU units. DOC indicated that they were willing to house transgender men in male facilities consistently with gender identity, but none had made a request. DOC also stated that its male facilities hold an additional 24 transgender women, 15 of whom had not requested housing in a female facility.

When questioned by Board members, DOC repeatedly asserted that these numbers meant that the majority of transgender women were housed consistent with their gender identity at RMSC. That is flat out incorrect: according to these numbers, the majority of transgender women (24) are housed in male facilities, with the remainder (23) housed in RMSC. DOC's assertions about these numbers is indicative of their pervasive misunderstanding of issues surrounding gender identity; their representation only makes sense if DOC lumps together in their calculations both transgender women and transgender men. While housing a transgender man in RMSC may be appropriate if the person does not want to be housed in a male facility, it is certainly not housing someone consistently with their gender identity and DOC's testimony did nothing to allay our concerns that the Department systematically ignores and misgenders transgender men.

DOC's depiction of where transgender women are housed is not consistent with our experience. Transgender women in custody and other advocates tell us there are now two THUs at RMSC, with the second THU being an integrated "vulnerable persons unit" that houses transgender women with cisgender women over fifty years old. Is it possible that DOC is referring to this second hybrid THU as "general population" housing? We ask because we are not aware of transgender women actually housed in *general population* at RMSC, as DOC testified they were, and would be surprised if this were indeed the case.

More broadly, whatever the current range of gender-consistent housing in DOC, we have no real understanding of the criteria DOC uses for admission to any of them. At the hearing, DOC maintained that housing in the THU as opposed to general population is based on a person's choice. Since we are not aware of any people being asked if they want general population housing, we have no idea what this means. If there are two THUs, how is it determined who will be housed in one THU versus another? Are there different safety considerations for the people who are housed in a unit with cisgender women over fifty, and if so, what? DOC still has not promulgated a written policy about this, despite telling the Human Rights Commission and advocates months ago that a written policy would be forthcoming in short order. Transgender individuals thus have little clarity about how they will be safely housed in the City jails, and the public has little understanding of its own public policy on the issue.

Transgender people are excluded from gender-consistent housing.

Despite DOC's claim that its policy is to afford gender-based housing upon request, the reality is that most transgender women we have spoken to have been excluded from such housing. They are turned down or removed from this housing for a variety of vague and often disturbing reasons, to the extent that we are able to obtain any explanation from DOC for their actions.

DOC rejects people for admission to the THU because of their lack of understanding about the spectrum of gender identity, with too many preconceived notions about how a "woman" is supposed to present. If a person does not present in that manner, there is an assumption that she does not belong in the THU. Similarly, DOC seems to assume that a medical transition is a necessary element of transgender status, not recognizing that not all transgender people want to medically transition.

The major reason DOC invokes to reject or remove our clients from gender-consistent housing is a claim that the individuals are dangerous because of their criminal or disciplinary conduct. But DOC appears to have no criteria to guide its claim that of what defines "assaultive behavior," and what acts in the distant past are relevant to current housing determinations. Why should a person be denied admission because of an act from years ago? Similarly, no guidance is given on what alleged misconducts sufficiently probative of dangerousness to result in the denial of a housing placement consistent with gender. Too often, DOC seems to assume that if a person has engaged in any act that can be characterized as "violent," even defending themselves, that they do not belong in gender consistent housing. This not only is illogical, but results in that person being sent to unsuitable alternative housing that too often is extremely violent and dangerous.

We strongly support implementation of the Prison Rape Elimination Act's Standards relating to the screening of persons in custody so that the Department can better determine who is at risk of sexual victimization and who is at risk for engaging in abusive conduct.⁴ But this information should not be used as a sword to deny housing based on gender identity. The only legitimate reason for denying a person gender-based housing, as we were recently told by an expert in security, is when a person has a genuine history of gender-based sexual violence towards members of the gender with whom they request housing. In other words, we do not accept the predicate that a transgender woman, even with a history of assaultive behavior, cannot be safely managed in the same manner as cisgender women, some of whom have violent histories themselves, particularly since such assaultive behavior has so often stemmed from a need to protect oneself in a dangerous and unwelcoming environment.

DOC has also claimed that transgender women housed in RMSC obtain the medical, mental health and programmatic services they need in that facility. Again, that is the opposite of the experience of our clients. For example, one of our transgender female clients went through detox at a male facility before she was moved to the THU—whereas cisgender women would have done so in a female facility. We are not aware of any transgender woman who has been allowed to be housed in mental health or infirmary housing at RMSC.

⁴ See BOC Minimum Standards, 40 R.C.N.Y. at Chapter 5, §§ 5-17 - 5-18.

DOC also refuses to house an individual consistent with that person's gender identity if the person reports sexual abuse or harassment in gender-aligned housing. For example, only a few months ago we repeatedly advocated, albeit unsuccessfully, for DOC to return a transgender woman to the THU after they removed her for reporting two people in the shower engaged in a sexual act. An investigator told her that she had to be moved off the unit for her own safety. While we do understand that it can be reasonable to change the housing area of a person who has reported an incident in order to protect them from any retaliation, they should be moved to a safe area that is consistent with their gender identity. Otherwise, the result is that people are moved to a men's facility where, like this person, they face harassment or worse. It also chills people from coming forward with complaints, making the THU a more dangerous place.

People are not informed of their gender-aligned housing options in custody.

At the BOC hearing, DOC maintained that people are told how to apply for the THU or gender-consistent housing at admission. They testified that at admission, a screening form is filled out, and anyone who is identified or self-reports as a transgender woman is then taken to RMSC intake. DOC also claimed that a person can request admission to the THU or general population housing at any time during their stay in custody. Again, this is not the experience our clients report. They tell us there is no consistent time, place, or manner in which they learn their gender-congruent housing options. None have ever reported being told that there is any option for gender-congruent housing apart from the THU. Our clients who have applied to the THU were not told who makes the decision to grant or deny their request. And they certainly have no idea of any mechanism for appeal, even though the THU directive contemplates there should be an appeal.

At the hearing, DOC maintained—as they have for years—that they are working on a new Directive about these issues. But even if this promise does materialize, it may not fill the information void: DOC refuses to allow the current THU Directive to be provided to people in custody, and we have no idea if they will change their course with a revised directive,

DOC also said that many transgender women *choose* to be housed in male facilities. If that is true, we have serious concerns about how that choice is informed. For example, one woman asked to be removed from the THU when it was moved to RMSC because she wanted cell housing, and not the dormitory environment of the THU. At no time was she told that she had the option to be housed in a general population cell area at RMSC like ciswomen. Instead, she moved “voluntarily” to a male facility, where she experienced two serious incidents of sexual abuse. Other transgender women may have declined the THU because they are afraid of an unwelcoming environment if housed among cisgender women and the staff who guard them. But from the accounts we have heard, that fear is actively reinforced by members of DOC staff outside the THU.

Protective custody does not protect.

A core security problem is that DOC fails to provide sufficient safe housing alternatives to the THU, even in its protective custody units. Transgender men and women who are not placed in the THU report misgendering and repeated harassment and even abuse by other persons in

custody and staff. Transgender men in particular have long been ignored, presumably because of an incorrect and unjust assumption that they can pass as women.

Many transgender women who are not housed in the THU are housed in a protective custody unit in the male jails. But protective custody does not seem any safer than general population. Within protective custody units, violence happens much too frequently, with appalling incidents of sexual violence against transgender women reported during the past year. Unfortunately, this should surprise no one. The Department conceded at the BOC hearing that *no* additional staff is regularly assigned to protective custody units. As a result, it is no surprise that there have been repeated incidents of sexual violence and even rape in these units directed at transgender individuals.

The Council should examine how DOC facilitates discrimination in NYS DOCCS custody

Even as DOC has made strides in housing at least a substantial percentage of transgender women in a women's jail, the New York State Department of Corrections and Community Supervision ("NYS DOCCS") has lagged behind, with no THU, and virtually no transgender women housed in a women's prison. This has resulted in the anomaly that transgender and cisgender women housed in RMSC are treated wholly differently when it comes to transport to an upstate prison. Right now, cisgender women are sent from RMSC to Bedford Hills for reception, while transgender women confined in the THU are uniformly sent to a male facility. (Since we are not aware of any transgender women confined in general population at RMSC, we cannot say where they are sent.)

The Council needs to determine if DOC colludes with DOCCS in enabling this discriminatory conduct to continue. It should also determine if steps could be taken by DOC to facilitate DOCCS' ability to conducting assessment for gender-appropriate housing while people remain in DOC custody.

The proposed legislation should be passed to redress these human rights violations.

The proposed legislation address many of these longstanding issues, and will lead to critically important reforms. We therefore enthusiastically endorse their enactment.

Int 1532, proposed by Chair Powers and Council Member Kallos, addresses some of the most significant obstacles to housing consistent with gender identity. It wisely removes the requirement that people must have identified in their current gender identity during a prior incarceration or present documentation reflecting medical transition. Many incarcerated persons have not "come out" during prior incarcerations; understandably, many people have been afraid of danger by doing so, either from staff or from other incarcerated people. Moreover, as acknowledged by the legislation, people can become aware of their gender identity differently over time. The legislation also recognizes that not all persons who are transgender choose to medically transition. Even those who have chosen medical intervention may not have documentation of it, since many people—particularly among the incarcerated population—have obtained hormones and other treatment from friends or others, and not from licensed medical providers.

The proposed legislation also confronts some of the most intractable problems for housing in DOC by requiring formal written procedures on housing that must, at a minimum, provide notice to an individual who has been denied housing about how to appeal, set up an appeals process, and require a timely written decision to the incarcerated person.

However, based on our experience, we suggest the following revisions to improve the proposed legislation and make the admission criteria less ambiguous:

1. It should explicitly require that people in custody be given written notice of how they can apply for housing consistent with their gender identity at any time during their incarceration, from intake until discharge, not just how they can appeal an adverse decision. Based on our experience, a clear mandate requiring that this notice be *provided to* incarcerated persons is essential to ensuring they benefit from the procedural protections the legislation contemplates.
2. As required by the Mayor's Executive Order 16, there should be a presumption that people will be confined consistent with their gender identity. This presumption should not be overcome unless 1) the person does not wish to be so housed or 2) DOC can demonstrate that the person presents by clear and compelling evidence a present danger of committing gender-based violence against others. As the past two years have shown, it is simply not enough for the Council to reiterate the language of the Board of Correction's PREA Standards.

We therefore suggest the following revision to the proposed legislation (in red italics).

Section 9-157(c) would read as follows:

Subject to section 115 of title 28 of the code of federal regulations, the department shall establish a process for transgender and intersex individuals to self-identify as such at intake, and use such self-identification to make housing and programming assignments on a case-by-case basis. *There shall be a presumption that housing assignments will be based on gender identity, unless 1) the person does not want to be so housed or 2) the department can overcome such a presumption by a clear and compelling evidence that the person presents a present danger of committing gender-based violence against others.* ~~In determining such housing and programming assignments, the department shall consider whether a placement would ensure the incarcerated individual's health and safety and whether the placement would present management or security concerns, *In*~~

making this determination, the department shall further consider whether the person can safely be housed in a facility most closely aligned with the person's gender in a manner comparable to cisgender persons housed in such a facility with a similar history. The department shall not prevent incarcerated individuals from identifying as transgender solely because of classification as a different gender while previously incarcerated or because of the absence of documents indicating medical transition.

Int 1530 is an important companion piece of legislation which would require DOC to report whether it honors requests to be housed based on gender identity. This will provide critical information about the scope of the issue, from how many people request such housing to how often DOC determines they can or cannot have it.

We suggest two amendments to improve the proposed legislation. At § 9-157(6), the legislation states that the data being reported should include whether the request was to be placed “in specialized housing, to be housed in accordance with gender-identity; or another request.” We believe we understand the distinctions being made, but we suggest that some clarifications might help. We also believe that the reason for any denial should be provided.

We therefore suggest the following revision to the proposed legislation (in red):

Section 9-157, paragraph 6 would read as follows:

Such an incident level report shall include (a) whether the request was to be placed in specialized housing (*e.g., a “Transgender Housing Unit”*), to be housed in a *in a facility that is* in accordance with gender identity; or another request; (b) the outcome of the request;(c) whether the request was appealed; and (d) the outcome of such request. *The reasons for any denials shall be included.*

Int 1513 and Int 1514 recognize that transgender, intersex, non-binary and gender non-conforming persons should never have to choose between housing consistent with their gender identity and obtaining needed services. For that reason, we heartily endorse this proposed legislation. Persons should be able to receive mental health and medication assisted treatment regardless of their gender identity and regardless of where they are housed.

Int 1535 sets up a task force to review DOC's policies related to the housing and treatment of transgender persons in custody. The task force importantly includes not just representatives from DOC and CHS, as well as the Human Rights Commission, but has a majority of members who

either were or are currently incarcerated in the THU, service providers, and national experts. Annual reports and recommendations for change are required.

We fully support this legislation, and hope that DOC and CHS participate openly and fully; without that commitment—which we have not seen from DOC in years—this task force will not be as useful and successful as it otherwise could be.

Int 1514 appropriately expands medication-assisted treatment to include buprenorphine, naltrexone (vivitrol), and methadone. We suggest that this section of the administrative code should be further revised to address the reality that incarcerated people in DOC custody are forced to engage in a painful detoxification process simply because they are sentenced to NYS DOCCS custody, where this essential medical treatment is not provided. DOC should not collaborate in DOCCS' failings and so we suggest the following revisions (as noted in red):

Section 1. Section 9-107 of the administrative code of the city of New York, as added by local law 47 for the year of 1969, is amended to read as follows:

a. The commissioner of correction shall establish a program for the treatment of [heroin addicts] substance abuse through the use of [methadone hydrochloride therapy] medicated assisted treatment, including the administration of methadone, buprenorphine, and naltrexone. The program shall be available **[ONLY]** on a voluntary basis ~~only~~ to **ALL** such [inmates] incarcerated individuals as apply, subject to a medical evaluation, before acceptance, of their need for such treatment. *The decision on which medication is appropriate shall be based solely on the exercise of medical judgment, following consultation between the medical provider and the incarcerated person, and shall be available as needed and requested throughout an incarcerated individual's stay in DOC custody.*

We Support the Resolutions To Be Considered At the Hearing

Res. 143-2019. The Legal Aid Society has long been a supporter of the HALT Solitary Confinement Act, and encourages the New York State legislature to enact S.1623/A.2500 as currently drafted. Solitary confinement is torture. To quote the New York Campaign for Alternatives to Isolated Confinement:

“Thousands of people, disproportionately Black and Latinx people, remain in solitary in NY each day, and tens of thousands each year: 22 to 24 hours a day in

a cell without any meaningful human contact or programs. People continue to spend months, years, and decades in solitary (including upwards of 30+ years) in NY. These conditions cause devastating physical, mental, and behavioral impacts. The entire United Nations, including the US, passed rules prohibiting solitary beyond 15 days for any person, because it otherwise would amount to torture. Colorado has implemented a 15-day limit in its prisons and reduced the number of people in solitary from 1,500 to 18. HALT would similarly include a 15-day limit on solitary, and would create more humane and effective alternatives. States that have reduced the use of solitary have seen a positive impact on safety for both incarcerated people and correction officers.”⁵

Ending the use of prolonged solitary confinement in New York State will make correctional facilities more humane and safer for both incarcerated people and staff. The Legal Aid Society joins the New York City Council’s call for state legislators to immediately pass, and for Governor Cuomo to immediately sign, the HALT Solitary Confinement Act as it is written.

Res. No. 829 – The Legal Aid Society wholeheartedly supports Res. No. 829 which calls upon the New York State Legislature to pass, and the Governor to sign, S.1343/A.5493, also known as the “Less is More” bill. This bill is the first of its kind to offer comprehensive reform to eliminate the unnecessary and disruptive incarceration that thousands of NYC residents face every year for technical violations of parole.

For too many years, enforcement of technical parole conditions through incarceration has disrupted the positive reentry of those on supervision and their families, and undermined the goals of supervision. With the current law allowing for automatic remand for those accused of purely technical violations with only a chance to be released, parole violators are often sent back to prison not because their violations of conditions represent a threat to the community, but as a punishment for punishment’s sake. Instead, the proposed bill rewards those on supervision to earn time off their sentence by abiding by conditions of parole, which creates rational incentives for those on parole to follow their supervision requirements. The bill also substantially reduces the type and amount of prison time that can be imposed on violations for purely technical parole conditions which research has shown bear little connection to public safety and are drivers of incarceration. Most importantly, the bill provides much needed due process for accused parole violators by ensuring an immediate criminal court recognizance hearing with an opportunity for release before incarceration occurs, providing those accused the opportunity to preserve their employment and housing while they wait for the outcome of their final parole hearing.

In sum, the “Less is More” bill is an important first step in reducing the amount of unnecessary incarceration of those who are serving supervision so that successful reentry and public safety are truly accomplished.

⁵ “NEWS: #HALTsolitary Commends Legislature for Rejecting Cuomo’s Flawed Proposal on Solitary Confinement,” New York Campaign for Alternatives to Isolated Confinement, March 15, 2019. Access at <http://nycaic.org/2019/03/15/news-haltsolitary-commends-legislature-for-rejecting-cuomos-flawed-proposal-on-solitary-confinement/>.

EXHIBIT 2



New York City Council
Committee on Criminal Justice and Committee
on Women and Gender Equity

Hearing: The TGNCNBI Task Force Report
Update and TGNCNBI Individuals in Rikers

Hearing on Proposed Legislation: Int. 355, Int.
728, Int. 831, Int. 887, Res 117, Res 458

January 25, 2023

Testimony of The Legal Aid Society

The Legal Aid Society is grateful for this opportunity to testify about the experience of transgender, gender non-conforming, non-binary, and intersex (“TGNCNBI”) people incarcerated in the City jails. As the largest public defender in New York City with specialized units dedicated to the rights of incarcerated and LGBTQ+ people, we speak frequently with TGNCNBI clients and their loved ones. It is because of their willingness to share their experiences that we can speak to some of the systemic issues impacting incarcerated TGNCNBI people. But it is imperative that this Council and the Department of Correction (“DOC” or “the Department”) take direction from TGNCNBI people and join us in supporting the recommendations in the August 2022 Report of the Task Force on Issues Faced by TGNCNBI People in Custody (“Task Force Report”), the subject of today’s hearing, and the testimony of incarcerated and formerly incarcerated TGNCNBI people testifying before you today.

The treatment of Legal Aid’s TGNCNBI clients by the Department is inhumane, unlawful, and wholly inconsistent with New York City’s dedication to LGBTQ+ rights. The Department’s claim that it houses people based on gender identity is simply untrue. Only 20% of Legal Aid’s clients who requested gender-aligned housing were allowed to transfer and remain in the Rose M. Singer Center (“RMSC”), where women in custody are housed. Our female clients housed in men’s jails are physically and sexually assaulted and suffer from the serious mental harms caused by having their identity denied and denigrated on a constant basis. The City Council must take immediate action by adopting and implementing the recommendations of the Task Force Report and passing a strengthened version of Int. 728.

Since 1876, The Legal Aid Society has been committed to providing quality legal representation to low-income New Yorkers. We are dedicated to ensuring that no New Yorker is denied access to justice because of poverty. The Legal Aid Society’s Criminal Defense Practice, which serves as the primary defender of low-income people in New York City prosecuted in the State court system, hears daily from incarcerated people and their families about their experiences in DOC custody. The LGBTQ+ Law and Policy Unit daily advocates for TGNCNBI people incarcerated in the City jail system and in the State prison system and pursues legislative, policy, and litigation to fight for more humane treatment of TGNCNBI people. Since its inception 50 years ago, the Prisoners’ Rights Project has investigated and remedied unconstitutional and unlawful conditions in the City jails and has continuously been advocating for the rights of incarcerated TGNCNBI people.

I. DOC Denies Most Requests for Gender-Aligned Housing

As the largest public defender in New York City, we can confidently report that DOC does not house most transgender women in gender-aligned housing, despite its claims to the contrary. *See* November 14 Response to the Task Force Report at 1 (“Since 2018, the Department has housed individuals in custody based upon gender identity.”) (hereafter “DOC Response”). In 2022, Legal Aid’s LGBTQ+ Unit and Prisoners’ Rights Project worked with twenty-four transgender women and non-binary people who requested to be placed at RMSC. Of these requests, only ten were approved. Furthermore, of those approved, half were forced to return to a men’s jail involuntarily as a form of discipline. Thus, only 5 (20%) of the people requesting gender-aligned and safe housing were transferred to and remained in gender-aligned housing. Of the clients denied gender-aligned housing, all have reported sexual assaults, other

forms of violence, and harassment while in men’s units. This is nothing short of a crisis and demands immediate action.

Through our clients, Legal Aid has had an opportunity to review some of the reasons people are denied gender-aligned housing.¹ These denials are rife with discriminatory and transphobic reasons ranging from the person’s sexual orientation and disciplinary or criminal history to DOC’s own perception of their gender identity. DOC’s own policy and applicable regulations make clear that it is the impacted person’s safety needs that should determine housing placement, but these are not even mentioned.² DOC’s reasons for denials are also constitutionally impermissible. As one federal court explained while rejecting the argument that a violent record should require a transgender woman to be housed in a men’s jail, “female inmates can be equally aggressive and violent . . . [y]et, no one would suggest those women should be housed in the men’s division.”³ The United States Department of Justice has recently recognized that the Eighth Amendment, which prohibits cruel and unusual punishment, requires placement in a gender-aligned jail when necessary to provide reasonable safety.⁴ Nevertheless, DOC wholly disregards our client’s identities and experiences of sexual assault, violence, and discrimination in its assessments.

One Legal Aid client survived a brutal sexual assault while housed in a men’s jail. Despite this experience and numerous requests to be transferred to RMSC, this client spent almost three years in a men’s jail experiencing daily harassment, misgendering, and physical and sexual threats. Ignoring the recommendations of her medical and mental health providers, DOC repeatedly refused to move her for discriminatory and unlawful reasons, including the fact that she at one point disclosed she was bisexual and had unsubstantiated, transphobic allegations made against her. This client, like many of our TGNCNBI clients, was accused of misbehavior when in fact she was defending herself against violence by others. She was ultimately transferred

¹ Often, we receive these decisions through the FOIL process long after our clients leave DOC custody because the Department refuses to provide them to us, even when we have executed client releases. As explained in Section II, this effectively stonewalls efforts to dispute DOC’s reasoning for a denial. Our clients often never receive a written decision and, even if they do and are able to retain the paperwork through sweeps and transfers, there are substantial logistical barriers to getting a copy from them directly.

² DOC Directive 4498R-A at IV(B)(1)(a) (“Persons shall be housed in the facility consistent with their gender identity, absent overriding concerns *for the detained person’s safety*.”) (emphasis added); New York City Board of Correction Minimum Standard 5-18(f) (requiring that the focus of any housing reassessment be on “threats to safety *experienced by the inmate*”); *see also* 47 N.Y.C.R.R. § 2-06(b) (providing that it is discriminatory under the NYC Human Rights Law to refuse people access to single-gender facilities or programs consistent with their gender identity); Letter from NYC Commission on Human Rights to Department of Correction (Apr. 13, 2018) (“DOC must house [incarcerated people] consistent with their gender identity” unless the person expresses otherwise or there is an individualized assessment focused on the incarcerated person’s health and safety).

³ *Hampton v. Baldwin*, 2018 WL 5830730, at *12 (S.D. Ill. Nov. 7, 2018) (applying heightened scrutiny when corrections officials treat transgender women differently than cisgender women); *see also Doe v. Mass. Dep’t of Corr.*, 2018 WL 2994403, at *9-10 (D. Mass. June 14, 2018) (same); *Tay v. Dennison*, 457 F. Supp. 3d 657, 680-81 (S.D. Ill. 2020) (same).

⁴ United States Department of Justice Statement of Interest in *Diamond v. Ward*, 20-cv-00453 (M.D. Ga. Apr. 22, 2021) (Doc. No. 65).

to DOCCS custody, where DOC's refusal to house her in RMSC likely influenced DOCCS' decision to house her in a men's prison. Another Legal Aid client has involuntarily been housed in a men's jail for over two years. She faces regular harassment and threats of physical violence, has been slashed by other incarcerated people, and suffered a sexual assault by an officer in a transport vehicle. Nevertheless, the Department has repeatedly denied her requests for gender-aligned housing, citing to unproven charges brought against her over two decades ago and disciplinary infractions where she, herself, was the victim of violence.

Significantly, even when a client is eventually approved for housing in RMSC, they experience physical and sexual assault during the days or even the hours they wait for DOC to make a decision on their placement or while they wait for DOC to effectuate an approved transfer. One Legal Aid client was approved to be moved from a men's jail to a women's jail. In blatant violation of her right to privacy, officers told her in a public area of a men's unit that she would be transferred to RMSC, but not until a COVID quarantine was over. She was subsequently raped in the shower of the men's unit. Shockingly, although she was later transferred to RMSC, she was involuntarily transferred back to a men's jail after an altercation, even though DOC determined that she was the victim in the incident. She spent the rest of her time in DOC custody in a men's jail despite repeated pleas by herself and her advocates to have her moved back to RMSC for her safety.

The intake process is also grossly inadequate to ensure people's safety. Although she was housed in RMSC during a prior incarceration, one Legal Aid client was brought to a men's jail when she returned to DOC custody despite telling DOC upon intake that she was a woman and needed to be housed at RMSC for her safety. She was subsequently attacked in her cell when her cell door was maliciously left open. It took one week for DOC to give her the required form to ask for a transfer and two weeks after that before she was actually moved. We are aware of at least two other people who were sent to men's intake upon re-entry to DOC custody, despite having recently been in RMSC during a previous period of detention. One current client has spent twenty-two days in a men's jail despite having previously been in RMSC; DOC did not transfer her to RMSC until *two weeks* after she was approved.

While the physical damage done to women in men's jails is well-documented, there is also serious psychological damage when someone's gender identity is constantly questioned, denied or denigrated. One woman, housed in a men's jail and denied aligned placement several times, was previously living at a women's shelter in Brooklyn. There – consistent with law and basic principles of human respect and decency – she was called by her female name and pronouns and given equal access to programs and services received by other women. Upon her arrest, however, that treatment abruptly ceased. Instead, she was constantly misnamed, misgendered, and forced to live in a men's unit at great risk to her physical safety and emotional well-being. As a result of this treatment, she has been in and out of mental health observation housing. She has survived multiple depressive episodes with inclinations towards self-harm. This is just one of the many stories our clients tell us of their lives as women – as being respected and seen as women in this city – contrasted with how they are treated the moment they enter DOC custody.

II. As A Practice, The Placement Process is Neither Fair Nor Transparent

In its response to the Task Force Report, the Department asserts “it is our goal to make the placement process fair and transparent.” DOC Response at 6. It is neither. For years, the Department has refused to provide its LGBTQ+ policy not only to the public, but to the very people who are subject to its terms. Legal Aid has worked with at least forty-five TGNCNBI people over the last year. These clients often do not know about their right to safe, gender-aligned housing and, if they do know and make such a request, they do not receive the required form for days if not weeks. When they are finally provided the form, it is often not in a confidential or private setting. One client reported that an officer filled out the form for her, despite the private nature of the information requested. Clients are also frequently not informed when DOC decides their placement and are not provided with any meaningful way to challenge a denial, many of which contain factual inaccuracies. Finally, DOC refuses to provide decisions to advocates, including defense attorneys with executed releases, effectively blockading attempts by advocates to timely and fairly challenge these decisions. *See* DOC Response at 4 (“It is not our intention, however, to provide a copy of the notice to third parties.”).⁵ The seriousness of these decisions require meaningful communication with impacted TGNCNBI people and due process protections.

Compounding the lack of clarity and fair treatment under DOC’s current policy and practice, *for over three years* Legal Aid and the other participants on the Task Force have been told that a new directive on the housing of TGNCNBI people is “forthcoming” and will address some of the serious problems with the existing policy, such as the fact that placement decisions are not informed by legal, medical, and cultural experts in TGNCNBI care and identity. But, despite numerous requests, a draft directive has not been shared with stakeholders, including the Task Force which was created for the very purpose of reviewing and providing input on such policies.

III. The LGBTQ+ Affairs Unit Is Severely Understaffed, Has Insufficient Authority to Make Appropriate Housing Decisions, and Is No Longer Providing Support to TGNCNBI Clients

During the de Blasio Administration, the Department made some significant strides towards increasing support and implementing affirming services for TGNCNBI people in custody. For instance, DOC established the LGBTQ+ Affairs Unit in 2019. Although transphobia and homophobia continued to persist in DOC facilities, from approximately mid-2020 through late 2021, Legal Aid attorneys and staff were able to reach out to members of the Unit to ask them to meet with incarcerated TGNCNBI people with safety concerns and to ensure the housing requests of clients were being timely reviewed. Members of the LGBTQ+ Affairs Unit actively worked to connect clients with affirming jail-based and community-based providers and organized affirming resources and services within the jails. Many of our clients

⁵ No rationale is provided justifying this approach, particularly as applied to defense attorneys with executed releases, belying the Department’s claim that it “is committed to ensuring that transgender, gender non-conforming, gender non-binary, and intersex (TGNCNBI) individuals in custody are treated with dignity and respect and housed safely and appropriately while in city jails.” DOC Response at 1.

reported feeling safe and affirmed with LGBTQ+ Affairs Unit staff, marking a small but significant culture shift in the Department.

In sharp contrast, in 2022, many of the LGBTQ+ Affairs Unit staff left the Department and, to our knowledge, those positions have not been filled. Now, our clients do not know who they can safely reach out to when there are threats to their safety and well-being or when they need assistance on transferring to gender-aligned housing. They rightfully fear that any request for help will require interactions with officials who will misname and misgender them and put them further at risk. For instance, in contrast to their experiences with the LGBTQ+ Affairs Unit, our client's interactions with security and Prison Rape Elimination Act (PREA) staff are deeply concerning. Our clients regularly inform us that PREA and security interviews emphasize the safety and security of cisgender people and not the mental health, legal rights, and personal dignity of TGNCNBI people. Not only are these interviews occurring within the housing units, providing individuals with no privacy and increasing the likelihood of disclosure of information that may place them in harms' way, the questions focus on whether our transgender women clients will be threatening to cisgender women rather than their own safety needs. While Legal Aid and other organizations have sought clarification from Commissioner Molina on the status and role of the LGBTQ Affairs Unit, these requests have been ignored.

IV. The Council Should Pass A Strengthened Version of Int. 728 to Redress These Human Rights Violations

Int. 728, proposed by Councilmember Powers, is an important step to address DOC's disregard for TGNCNBI people in its custody. Most significantly, it addresses some of the serious deficiencies in the procedure that applies to housing decisions by requiring formal written procedures that must, at a minimum, provide written notice to an individual denied gender-aligned housing on how to appeal and involving the Board of Corrections in the appeals process.

However, without several key revisions, the current version of the bill will not ensure TGNCNBI are as safe as possible in DOC custody and establish fairness and transparency in how housing decisions are made. Legal Aid supports the proposed revisions attached to the Task Force's testimony, also attached as Exhibit A to this testimony, for the reasons set forth here.

First and foremost, consistent with the New York City Human Rights Law, constitutional requirements, and the goals of PREA, the law must provide that housing will be based on gender identity unless (1) the individual does not wish to be housed based on gender identity or (2) DOC can demonstrate *by clear and convincing evidence* that the person poses a current danger of committing gender-based violence.⁶ Corrections officials must be prohibited from using discriminatory reasons to deny appropriate housing, such as genital status, sexual orientation, or

⁶ PREA should have marked a momentous change in how housing placements for TGNCNBI people are made. The PREA regulations made clear that (i) housing determinations must not be based on a person's anatomy, (ii) the single most important factor in placement is the "[individual's] health and safety," and (iii) TGNCNBI people's "own views with respect to . . . safety shall be given serious consideration." 28 C.F.R. § 115.42. As DOC's placement determinations show, it is not fairly balancing these considerations, resulting in serious harm to TGNCNBI people's safety and well-being.

transphobic complaints while at the same time taking the steps necessary to ensure all people in custody, including those who are TGNCNBI, are protected from sexual violence.

This proposed language is not only consistent with controlling law, it provides clear and enforceable guidelines for making housing determinations. Such guidelines are necessary because the Department has demonstrated time and time again that it will allow transphobia to guide its decisions if permitted to consider simply “management and security concerns” without a clearer statement both of what that means and the evidentiary standard to be used. As explained in Section I above, the department’s decisions are rife with discriminatory rationales and inaccurate readings of disciplinary and criminal records. This language will clarify once and for all that the determining factor is safety by ensuring gender-aligned housing unless the person would feel safer in a facility aligned with their sex assigned at birth, for instance a transgender man who wishes to be in a women’s prison, or if they pose a real, demonstrated threat to people housed in women’s facilities.

Second, stronger due process protections must be included to ensure fairness and transparency in the decision-making process, protections that are lacking in DOC’s current practices.⁷ The revised version of the bill provides (i) immediate notice to all people of the right to be housed according to gender identity and personal sense of safety, (ii) strict time limitations for DOC to make a housing decision, (iii) provision of a written decision with supporting documentation to the impacted person and their counsel, and (iv) an appellate process involving an independent agency, the NYC Board of Correction, as well as staff with a demonstrated knowledge of mental and medical health issues specific to TGNCNBI people. By requiring the Department to share their written determinations with counsel, advocates will be able to meaningfully participate in the appeals process and seek safety for their clients. In short, the revised version of the bill includes all the hallmarks of requisite procedural due process for decisions that impact the physical safety and well-being of incarcerated people.

Third, the proposed revisions to the law address the serious physical and mental harm that can occur in the days or weeks before transfer to a gender-aligned jail is made. As outlined in Section I, even when the Department approves transgender women for housing in RMSC, it can take weeks to move a person despite the constant safety risks in a men’s jail. And, under current practice, the gender marker on the securing order determines initial placement rather than the person’s safety requirements. The proposed revisions address this issue by providing for confidential space prior to transportation out of the courthouse where a person can disclose which intake facility is appropriate to a trained and affirming DOC staff member.

With these changes, Legal Aid wholeheartedly supports Int. 728 and urges its immediate passage. The TGNCNBI community deserves quick and decisive action on this human rights issue.

⁷ See Section II.

V. Legal Aid Supports A Revised Version of Int. 887, Calling for Mandatory Monthly Reporting on DOC's Treatment of TGNCNBI People

Legal Aid agrees that additional public reporting on DOC's treatment of TGNCNBI people in custody is important to hold DOC accountable to the public and to governing laws and policies. Int. 887 serves this important purpose by broadening the categories of reported information currently required by NYC Admin Code Section 9-157. Section 9-157 requires reports on number of requests for housing in the Special Considerations Unit and number of denials, but the information is not specific enough to present a clear picture of DOC's housing determinations. For instance, current reporting does not provide information about the total number of TGNCNBI people in DOC custody, which facilities they are housed in, or the number of incidents of violence they experience. Int. 887 would fill that gap. The importance of such a measure is particularly important given the Department's recent refusal to provide data to the Task Force, hampering its ability to fulfill its mission.

There are however several revisions that Legal Aid believes would strengthen the bill, some of which are outlined below. Legal Aid would welcome the opportunity to work with the bill's sponsors to ensure reporting of the most useful information.

First, to understand whether people are being housed based on gender identity, the bill should more clearly require reporting on how many TGNCNBI people are housed in gender-misaligned housing against their wishes and for how long they are required to live in those circumstances. The current version of the bill captures who objects to their current housing placement, but that would also include, for instance, transgender women who feel safer in men's housing but wish to transfer from one's men's jail to another men's jail for any number of reasons that may not relate to their gender identity. Second, the reported data should differentiate specifically between the Special Consideration Unit at RMSC and general population at RMSC, as many of our clients have specific requests for one or the other based on their safety needs. Third, the reported data should capture the number of people who were originally approved for gender-aligned housing, but were then involuntarily removed from that placement and the reasons for that removal. Many of our clients have been involuntarily transferred out of RMSC to a men's jail for disciplinary reasons or because of an altercation, even when they are not at fault. Fourth, because many of our clients are forced into involuntary protective custody in RMSC (and elsewhere), DOC should report how many TGNCNBI people are in involuntary protective custody and for how long, disaggregated by facility. Finally, information on how many people have their security classification changed prior to being transferred to gender-aligned housing will help determine if DOC is subjecting TGNCNBI people to inequitable treatment based on their sex and gender.

VI. Legal Aid Supports Resolution 458 Calling for the Passage of the Gender Identity Respect, Dignity, and Safety Act

The Gender Identity Respect, Dignity, and Safety Act (GIRDS) is an important and essential step to protect TGNCNBI incarcerated people in all county jails and in New York State prisons and is widely supported by LGBTQ+ and criminal law reform advocates. Many of its provisions are incorporated into the proposed revisions to Int. 728. A May 2022 letter to the

leaders of the New York State legislature supporting GIRDS and explaining why it is important is attached as Exhibit B to this testimony.⁸

VII. Legal Aid Supports Resolution 117 Calling for the Addition of An X Marker to the Securing Order, Although It Would Not Resolve DOC's Current Dangerous Intake Practices for TGNCNBI People

Legal Aid supports Resolution 117, which calls for the Office of Administration (OCA) to update the securing order form throughout New York State to include an X marker option. The Gender Recognition Act ("GRA"), signed into law on June 24, 2021, permits people to select an X gender marker on state-issued identification documents. The inclusion of the X marker under state law is an important recognition that the markers "M" and "F" do not accurately reflect many people's gender identity. Although OCA should be changing the forms to reflect this change, to our knowledge the forms remain outdated.⁹

Nevertheless, it may be important to (i) add additional gender identity categories to the state-wide securing order form and (ii) allow people to correct the name and gender identification on the order before it is issued. Legal Aid does not have sufficient information about how the securing order form is used throughout the state to determine the scope of changes that should be made. However, in New York City, DOC's current policy and practice is to send people to intake facilities based on the marker on the securing order, even though this marker is often inaccurate for TGNCNBI people. Resolution 117 on its own will not resolve the fact that many TGNCNBI people are sent to an incorrect – and dangerous – gendered intake facility without giving people an opportunity to review and correct the securing order. As part of its proposed edits to Int. 728, Legal Aid proposes that people remanded to DOC custody have an opportunity to safely self-identify and be sent to intake based on that self-identification.

VIII. While Well-Intentioned, Legal Aid Believes Int. 355 In Its Current Form Does Not Help Address the Current Healthcare Crisis in DOC Jails And May Exacerbate It

Legal Aid strongly agrees that incarcerated people have a right to affirming healthcare providers with whom they are comfortable and acknowledges that the gender of the provider may be relevant to that assessment. However, based on Legal Aid's experience, the current healthcare crisis at Rikers relates to a dearth of competent and affirming providers (of any gender) and lack of access to healthcare in the first instance, not the inability to choose a doctor of the client's own gender. In November, 2022, the most recent month for which we have data, DOC failed to produce almost 10,000 persons to their medical and mental health appointments. DOC claims that almost 7,000 of those were due to refusals, but we have reason to believe that the number of people marked as refusing their appointments is significantly inflated. If DOC implements Int. 355 with its current staffing and inadequate response rates to requests for care, incarcerated people may experience even greater delays accessing care. DOC may claim, for instance, that a TGNCNBI person refused to be taken to their appointment because of their dissatisfaction with their escort or their provider. In addition, if the goal of Int. 355 is to ensure

⁸ To date, GIRDS has not received bill numbers for the 2023 legislative session.

⁹ As part of the 2022 budget process, Governor Hochul required all state agencies to change their forms and systems to recognize the "X" marker.

people have access to healthcare providers with whom they feel comfortable and affirmed, the law should allow people to request a doctor of a specific gender rather than only a doctor of their own gender identity. Finally, as much of this testimony demonstrates, DOC simply does not respect people's gender identity. Further explicit protections ensuring TGNCNBI people have access to their preferred doctor would need to be added into the bill.

Exhibit A

By Council Members Powers, Cabán, Rivera, Hanif, Brewer, Restler, Hudson, Ung, Joseph, Abreu, Avilés, Ossé and Sanchez

A Local Law to amend the administrative code of the city of New York, in relation to housing decisions for transgender, gender nonconforming and intersex individuals

Be it enacted by the Council as follows:

1 Section 1. Chapter 1 of title 9 of the administrative code of the city of New York is amended
2 by adding a new section 9-163 to read as follows:

3 § 9-163 Housing requests related to gender identity. a. Definitions. For the purposes of this
4 section, the following terms have the following meanings:

5 Gender identity. The term “gender identity” means a person’s sense of their own gender
6 which may be the same as or different from their sex assigned at birth

7 Gender nonconforming. The term “gender nonconforming” means a person whose
8 behavior or appearance does not conform to the traditional expectations of men and women, of
9 their gender, which may includes a person who is transgender.

10 Intersex. The term “intersex” refers to a person whose physical sex characteristics do not
11 conform to a binary construction of sex as either male or female.

12 Non-binary. The term “non-binary” refers to a person whose gender identity is not
13 exclusively male or female, which may include a person who is transgender.

14 Transgender. The term “transgender” refers to a person whose gender identity does not
15 conform to the sex assigned at birth.

16 b. At arraignments each person charged to the care, custody and control of the department
17 shall be advised on the record that they have the right to be held in an intake facility that aligns
18 with both their gender identity and personal sense of safety. The person shall further be advised

1 that following the arraignment appearance the department will ask them in a confidential space
2 about whether a men's or women's intake facility best matches their sense of safety and gender
3 identity and that, once at the intake facility, the department will conduct further screening
4 concerning housing placement. The department must honor the individual's choice regarding
5 intake facility.

6 c. Upon the department being ordered to take custody of an individual immediately
7 following arraignment or return on any warrant or parole violation, any individual identifying as
8 transgender, gender nonconforming, non-binary and/or intersex shall have access to a confidential
9 space within the courthouse and prior to transportation to any jail facility in which to disclose
10 whether a men's or women's intake facility is best for their personal sense of identity and safety.
11 This interview shall be conducted by a department staff member who has received training from
12 the LGBTQIA+ Initiatives unit within the department. The decision by the detained or otherwise
13 held individual as to whether a men's or women's intake facility is appropriate shall be followed
14 in every instance and supersedes any other documents used to determine intake placement.

15 d. Once in an intake facility, and at any time upon transfer to another facility, the
16 department ~~Subject to section 115 of title 28 of the code of federal regulations, the department~~
17 shall assess all incarcerated individuals during an intake screening and upon transfer to another
18 facility for their risk of being sexually abused by other incarcerated individuals or sexually abusive
19 toward other incarcerated individuals. The department shall consider, at minimum, the following
20 criteria to assess incarcerated individuals for risk of sexual victimization:

- 21 1. Whether the incarcerated individual has a mental, physical or developmental disability;
- 22 2. The age of the incarcerated individual;
- 23 3. The physical build of the incarcerated individual;

1 4. Whether the incarcerated individual has previously been incarcerated;

2 5. Whether the incarcerated individual's criminal history is exclusively nonviolent;

3 6. Whether the incarcerated individual has prior convictions for sex offenses against an
4 adult or child;

5 7. Whether the incarcerated individual is or is perceived to be gay, lesbian, bisexual,
6 transgender, intersex, non-binary or gender nonconforming;

7 8. Whether the incarcerated individual has previously experienced sexual victimization;

8 9. The incarcerated individual's own perception of vulnerability; and

9 10. Whether the incarcerated individual is detained solely for civil immigration purposes.

10 ~~ce. Subject to section 115 of title 28 of the code of federal regulations, †~~The department
11 shall establish a process for transgender, intersex, non-binary and gender nonconforming
12 individuals to self-identify as such ~~during intake~~ and to use such self-identification to make
13 housing and programming assignments on an individualized basis. ~~The department shall house a~~
14 ~~person in a facility most closely aligned with their gender identity and in the manner most similar~~
15 ~~to a cisgender person facing similar security needs unless (1) the person does not want to be so~~
16 ~~housed or (2) the department can overcome such a presumption by a determination in writing by~~
17 ~~the Commissioner or the Commissioner's designee that there is clear and convincing evidence that~~
18 ~~such person presents a current danger of committing gender-based violence against others. Such a~~
19 ~~denial cannot be based on any discriminatory reasons including but limited to:~~

20 1. past or current sex characteristics including chromosomes, genitals, gonads, or
21 any external reproductive anatomy, secondary sex characteristics, or hormone
22 levels and functions of the person whose housing is at issue;

23 2. the sexual orientation of the person whose housing is at issue

- 1 3. complaints of other incarcerated people who do not wish to be with a
- 2 transgender, gender nonconforming, non-binary, and/or intersex person due to
- 3 the person's gender identity or perceived gender identity or sexuality or
- 4 perceived sexuality;
- 5 4. a factor present among other people confined or previously confined in the
- 6 presumptive housing unit or facility;
- 7 5. classification as a different gender during a previous incarceration; or
- 8 6. absence of documentation or other evidence indicating medical transition.

9 f. At a minimum in any facility designated by the department as housing women, the
10 department shall maintain a voluntary unit known as the Special Considerations Unit which houses
11 transgender, intersex, non-binary, and gender nonconforming individuals and other vulnerable
12 people. Such a unit shall be staffed by persons trained and knowledgeable in the particular
13 experiences and needs of such persons.

14 ~~g. In determining such housing and programming assignments, the department shall~~
15 ~~consider whether a placement would ensure the incarcerated individual's health and safety and~~
16 ~~whether the placement would present management or security problems. The department shall not~~
17 ~~prevent incarcerated individuals from identifying as transgender, intersex or gender~~
18 ~~nonconforming solely because of classification as a different gender while previously incarcerated~~
19 ~~or because of the absence of documents indicating medical transition.~~

20 d. Subject to section 115 of title 28 of the code of federal regulations, †The department shall
21 establish a process for allowing transgender, intersex, non-binary and gender nonconforming
22 individuals who have requested entrance into a type of housing facility due to identifying as
23 transgender, intersex, non-binary or gender nonconforming to appeal denials of such requests. The

1 department shall maintain formal written procedures consistent with this policy and with the
2 following provisions:

3 1. The department shall have forty-eight hours to render a decision denying request as
4 described in subsection (e) above. It must provide a denial of the requested placement in writing
5 to the affected person within twenty-four hours of the Department's decision. The decision shall
6 include a description of all evidence supporting the decision and an explanation as to why the
7 evidence supports a determination that the individual presents a current danger of committing
8 gender-based violence against others. All supporting documentation shall be attached to the written
9 decision but may be redacted as necessary to protect any person's privacy or safety.
10 Unsubstantiated allegations shall not be considered clear and convincing evidence.

11 2. The department shall provide written notice to such individuals that such a determination
12 may be appealed and shall describe the appeals process in plain and simple language. The
13 department shall ensure that such written notice is available in English and the designated citywide
14 languages as defined in section 23-1101.

15 3. Any individual denied gender-aligned or Special Considerations Unit housing has the
16 right to re-apply for such housing at any time when there is information that was not previously
17 submitted or if previous information was not properly weighed.

18 4.2. The department shall create an appellate review board consisting of the commissioner
19 of correction or their designee, the deputy commissioner responsible for determining housing
20 classifications or their designee, an appropriate member of correctional health services
21 knowledgeable in medical and mental health issues specific to transgender, intersex, non-binary
22 and gender nonconforming individuals, and the director of LGBTQIA+ Initiatives or their designee
23 to review the initial decision. and the vice president of correctional health services or their designee

1 ~~to review the initial decision.~~ The appellate review board shall not include individuals who made
2 the initial housing determinations.

3 ~~5.3.~~ The department shall immediately forward all appeals to the board of correction. The
4 board of correction shall issue a written opinion within 24 hours of receipt of an appeal.

5 ~~46.~~ The appellate review board shall issue a determination within 48 hours of receipt of
6 any appeal and shall consider the written opinion of the board of correction in making its
7 determination.

8 ~~57.~~ Within 24 hours of making its determination, the appellate review board shall provide
9 the incarcerated individual with a written copy of the determination specifying the facts and
10 reasons underlying such determination as well as the evidence relied upon, subject to redactions
11 required by law. Whenever the appellate review board's decision differs from the written opinion
12 of the board of correction, the appellate review board shall explain why it did not follow the
13 recommendation of the board of correction. Upon request by the incarcerated individual or their
14 counsel, the appellate review board shall provide a copy of the decision and the evidence relied
15 upon, subject to redactions required by law, to counsel.

16 ~~68.~~ The department shall provide all written materials regarding the appeals process in
17 English and the designated citywide languages as defined in section 23-1101 and shall ensure that
18 incarcerated individuals are given any verbal assistance necessary to meaningfully understand such
19 procedures.

20 ~~9.~~ All materials detailed above in paragraphs 1, 6, 7, and 8 shall also be provided, with
21 necessary privacy redactions, to the City Council Taskforce on Issues Affecting TGNCNBI People
22 in the City Jails (see Local Law 145 of 2019) for review in a timely manner before each monthly
23 meeting.

1 § 2. Section 626 of the New York city charter, as amended by local law number 133 for
2 the year 2019, is amended by adding a new subsection i to read as follows:

3 i. The board shall issue opinions to the department regarding appeals of housing requests
4 related to gender identity.

5 § 3. This local law takes effect 90 days after it becomes law.

Session 12
AM
LS # 8279/10322
7/26/22

Session 11
AS
LS # 8238
Int. # 1532 - 2019

Exhibit B

May 11, 2022

Senate Majority Leader Andrea Stewart-Cousins
Legislative Office Building Room 907
Albany, NY 12247

Senator Julia Salazar
Chair, Senate Committee on Crime Victims,
Crime and Correction
State Capitol Building Room 514
Albany, NY 12247

Speaker of the Assembly Carl Heastie
Legislative Office Building Room 932
Albany, NY 12248

Assembly Member Jeffrey Dinowitz
Chair, Assembly Standing Committee on Codes
Legislative Office Building 632
Albany, NY 12248

Re: Support the Gender Identity Respect, Dignity, and Safety Act (A.7001-B/S.6677-A)

Dear Majority Leader Stewart-Cousins, Speaker Heastie, Senator Salazar, and Assembly Member Dinowitz:

We represent numerous LGBTQ+ groups and allied organizations in New York State and write to express our strong support for the Gender Identity Respect, Dignity, and Safety Act (A.7001-B/S.6677-A) (GIRDS). This law is urgently needed to protect transgender, non-conforming, non-binary and intersex (TGNCNBI) people who are incarcerated in New York's prisons and jails. We ask that you make every effort to pass this bill this session.

New York has always prided itself on being a safe and welcoming place for the TGNCNBI community, but it has not done enough for our community members experiencing incarceration. Most incarcerated transgender women continue to be housed in men's prisons and jails and incarcerated TGNCNBI people, regardless of where they are housed, are subjected to daily misgendering, abuse, and other inhumane treatment. Sylvia Rivera Law Project and TakeRoot Justice recently conducted a survey of TGNCNBI people incarcerated in New York State prisons and found that *all* women-identified TGNC respondents, the majority of whom were people of color, were housed in men's prisons.¹ Two-thirds of TGNC respondents requested transfers to gender-

¹ Sylvia Rivera Law Project & TakeRoot Justice, *It's Still War in Here: A Statewide Report on the Trans, Gender Non-Conforming, Intersex (TGNCI) Experience in New York Prisons and the Fight for Trans Liberation, Self-Determination, and Freedom* 17 (2021), available at <https://takerootjustice.org/wp-content/uploads/2021/06/Its-Still-War-In-Here-1.pdf>.

aligned housing due to safety issues and most were denied, often with cruel and inhumane language.² 75% of TGNC respondents experienced sexual violence by correctional officers.³ 95% of TGNC respondents reported being verbally harassed and called derogatory names by corrections staff.⁴ In the NYC Department of Correction (DOC), sixteen transgender women were housed in men's jails as of January 21. The impact of misaligned housing and constant misgendering and harassment on people's health, safety, and well-being is devastating. As described by one person,

For too many years, I had suffered years of abuse and indignities while housed with men in jails and prisons. Officers would often call me "it." Or, for example, when I was housed in a dorm with almost 50 men in Rikers Island in the summer of 2017, I was repeatedly verbally and physically harassed. I never felt safe; it was almost impossible to sleep. At no other time in my life have I experienced the deep hurt and pain I felt while housed with men in jails and prisons.

We urge you to read the experiences of other people subjected to these harmful practices, attached to this letter.

To finally help end this violence, fear, and inhumane treatment, New York must enact GIRDS. The bill creates a presumption of housing consistent with one's gender identity unless the person opts out of such placement or if there is *clear and convincing* evidence that a person presents a current danger of committing gender-based violence. Corrections officials will be prohibited from using discriminatory reasons to deny appropriate housing, such as a person's genital status or sexual orientation. In addition to the housing provisions, GIRDS includes the following important protections:

- Due Process Protections. Currently, in the state prison system, people wait for months and sometimes years for a written response to requests for gender-aligned housing and those responses provide little to no reasoning justifying a denial. GIRDS requires a written determination in two days with a detailed explanation for the decision. This will enable people who are denied to challenge wrongful or discriminatory denials.

² *Id.* at 18-21.

³ *Id.* at 27.

⁴ *Id.* at 24-25.

- Requires Affirming Treatment, Including Access to Affirming Items and Programming. GIRDS requires that TGNCNBI people are referred to by their names and pronouns and have access to gender-affirming commissary, programming, and medical care. It also provides a right to be searched by an officer or staff member most closely associated with their gender identity unless the person requests otherwise or there are exigent circumstances.
- Reporting and Training Obligations. GIRDS provides for annual training and reporting on compliance with the bill's provisions to ensure correctional agencies are held accountable.
- Intersex Inclusion. The GIRDS coalition includes intersex advocates who ensured the bill is inclusive of the needs of the intersex community and responsive to the specific discrimination they face in prisons and jails.
- Prohibits Transfer as a Form of Discipline. In NYC DOC, TGNCNBI people have been transferred from women's housing to men's housing as a form of discipline. To end this cruel and inhumane practice, GIRDS prohibits denying placement based on gender identity or transferring someone out of gender-aligned housing as a form of discipline. It would be unthinkable for a prison or jail to transfer a cisgender person out of gender-aligned housing as a form of discipline.
- Limits Involuntary Protective Custody. Many TGNCNBI people are placed in involuntary protective custody when they report an assault or other threat to their safety.⁵ Involuntary protective custody is solitary confinement, a form of torture.⁶ For these reasons, GIRDS limits the use of involuntary protective custody to 14 days.

The protections provided by GIRDS are consistent with other jurisdictions, including in the tri-state area. In New York, Steuben County, as the result of a lawsuit brought by a transgender woman, adopted a policy that prohibits denial of gender-aligned housing on the basis of discriminatory reasons, including "(i) the anatomy or genitalia of the person whose housing

⁵ *Id.* at 27-29.

⁶ United Nations Standard Minimum Rules for the Treatment of Prisoners, Rules 44-45 (2015).

placement is at issue, (ii) the sexual orientation of the person whose housing placement is at issue, (iii) the complaints of cisgender people who do not wish to be housed with a non-cisgender person due to that person's gender identity, or (iv) a factor present among the other people in the requested housing unit."⁷ Notably, the New York State Sheriffs' Association signed off on the Steuben County policy.⁸ Pursuant to a settlement, New Jersey recently adopted a policy whereby TGNCNBI people are presumptively housed according to their gender identity.⁹ In September 2020, California enacted a law that permits TGNCNBI people to assess where they will be safest and choose where they would like to be housed.¹⁰ New York should follow the lead of these and other¹¹ jurisdictions and enact the Gender Identity Respect, Dignity, and Safety Act.

We urge you to co-sponsor GIRDS and ensure that it move expeditiously through the relevant committees and to final passage.

Sincerely,

Adirondack North Country Gender Alliance
Albany Damien Center
Center for Community Alternatives
College & Community Fellowship
Correctional Association of New York
Decriminalize Sex Work
Drug Policy Alliance
Empire Justice Center
Envision Freedom Fund
Equality NY
Exponents
Free the People WNY
Gender Equality New York, Inc.
#HALTsolitary Campaign

⁷ https://www.nyclu.org/sites/default/files/field_documents/2020-07-22_faith_final_settlement_agreement_redacted.pdf.

⁸ See Press Release, New York Civil Liberties Union, Agreement Follows Lawsuit on Behalf of Woman Subjected to Harassment and Discrimination in Steuben County, N.Y. Jail (Aug. 5, 2020), *available at* <https://www.nyclu.org/en/press-releases/landmark-settlement-yields-one-nations-strongest-jail-policies-protecting-transgender>.

⁹ N.J. Department of Corrections Internal Management Procedure, PCS.001.TGI01 at 3 (2021), *available at* https://www.aclu-nj.org/files/6516/3000/3727/2021.08.26_ACLIU-NJ_GSE_Letter_to_Passaic_County.pdf.

¹⁰ Cal. Penal Code §§ 2605-06.

¹¹ E.g. Conn. Gen. Stat. § 18-81ii; M.G.L.A. ch.127 § 32A.

Hour Children
Innocence Project
Jim Owles Liberal Democratic Club
Lambda Legal
Legal Action Center
Long Island Social Justice Action Network (LISJAN)
Make the Road New York
New Hour for Women & Children – LI
New Pride Agenda
New York Civil Liberties Union
New York Communities for Change
New York County Defender Services
Osborne Association
Partnership for the Public Good
Phyllis B. Frank Pride Center of Rockland County
Princess Janae Place
Release Aging People in Prison (RAPP) Campaign
Small Town Pride – Malone NY
Sylvia Rivera Law Project
The Bronx Defenders
The Legal Aid Society
The LGBT Bar Association of Greater New York (LeGal)
The Lesbian, Gay, Bisexual & Transgender Community Center
Transgender Legal Defense and Education Fund
VOCAL-NY
Women’s Prison Association
Youth Represent

CC. Members of the Senate and Assembly

Experiences of TGNCNB People in New York prisons and jails¹

Experiences of Ms. A: Ms. A has been in DOCCS custody for over twenty years, always in a men's prison. During that time, DOCCS has delayed and at times denied access to gender-affirming care and failed to protect her from repeated instances of sexual abuse and harassment. Around 2014, Ms. A started asking for hormone therapy; it took more than a year and repeated requests for DOCCS to send her for an evaluation and even longer to provide her with treatment. Ms. A asked for gender-affirming surgery, but after more than a year, she still has not received it.

Ms. A has a long history of sexual abuse and victimization during her incarceration, including a gang rape by other persons in custody. She tells us she requested housing in a women's prison in accordance with the DOCCS policy but her request was denied with no reason given. Although DOCCS has placed her in a number of purportedly "trans-friendly" prisons, she has continued to experience serious abuse, including abusive searches, too frequently conducted by male officers, who have grabbed her breasts or genitals and made derogatory comments. Other prisoners have "hit on her," exposed themselves to her, and have touched her without her consent. When she has resisted their advances, her property has been taken and she has been assaulted. While her situation has at times improved when she has been transferred to prisons where there are with a number of other transgender women, this improvement has often been short-lived as other women are transferred, released, or even die by suicide.

In other words, Ms. A has faced continuing abuse as a result of her gender identity and the refusal of DOCCS to house her safely.

Experiences of Ms. B: Ms. B was released from DOCCS in the summer of 2019. She is in her fifties and is a woman. This incarceration was her first. When she was arrested in summer 2017, she had government issued identification that identified her as female. She was first taken to intake in the NYC Department of Correction (DOC) in the women's jail where she was kept isolated from others for approximately three days. When she revealed to a doctor that she was a transgender woman and needed female hormone medications, she was forced to move to a male facility. She was terrified and dumbfounded; she did not understand why she could not remain in the women's jail, particularly since the government had acknowledged her gender identity as female. She was moved to the Transgender Housing Unit (THU), which although located in a men's jail, felt safer than being housed with men in a general population unit. When the THU was moved to the women's jail, ironically she felt less safe because the THU then offered only dormitory housing. She could not retreat to a safe space if there were fights or if officers, as too frequently occurred, used pepper spray, aggravating her asthma and making it extremely difficult for her to breathe. She therefore asked to be moved to individual cell housing with solid doors. Instead, she was moved to a cell with bars in a men's jail where she experienced two horrific attempted sexual assaults, including one involving an incarcerated man pulling her hair through the bars of her cell to force his penis into her mouth. Only then was she moved to cell housing with a solid door in a different male jail, but even there she was subject to unrelenting sexual harassment.

¹ These client experiences are also included in The Legal Aid Society's Memorandum of Support for the Gender Identity Respect, Dignity, and Safety Act. The clients have chosen to share their experiences anonymously.

When she was sentenced to DOCCS she was put in general population at reception, despite our notifying DOCCS of her serious risk in custody. She tells us this period in population was the most frightening experience of her life, with other people in custody masturbating in front of her and demanding sexual favors. Officers varied from indifferent to hostile, saying things like “are you trying to make yourself pretty?” when she pulled her hair back in an effort to comply with their rules. She was then placed in protective custody.

After our intervention, she was moved to a “trans-friendly” prison where she told us she was safe while she remained on the unit, and where she was housed with other transgender women, some gay men, and some older persons. However, she also told us that she was terrified to leave the unit for medical care or programs or for any other reason, because of the substantial risk she faced from the men at the prison who would continually harass her. She also told us that officers would on occasion harass her due to her gender identity, telling her to take a certain route that was in fact not allowed or asking her if she performed massages. During her incarceration in DOCCS she was not provided with a bra that fit or with any female underpants. When she needed an evaluation for her hormone treatment, she was sent in handcuffs attached to a waist chain and ankle shackles for an appointment that lasted two minutes, even though the onerous and humiliating process took all day involving transport on a bus without seatbelts. Although there was a bathroom stop on the trip, the restraints were not loosened or removed so that she could use the bathroom. She was informed that if she refused the trip, she would receive a disciplinary infraction.

DOCCS and the Institutional Parole Officer had no idea how to help her find housing for women upon her release, because to their understanding they only worked with men since it was a men’s prison. As a result, she was released to a men’s shelter. Thankfully, she was able to find transitional housing for women immediately because of the efforts of advocates, but not because of any steps taken by DOCCS or the Division of Parole.

Experiences of Ms. C: Ms. C was housed in a women’s jail at Rikers Island from the summer of 2018 until spring 2020, and then in both a men’s prison and a women’s prison in NYS DOCCS custody until her release in early 2021. From virtually the moment she arrived in custody, she asked both NYC DOC and NYS DOCCS for gender affirming surgeries. Neither provided it. NYC DOC told us for months that they were trying to arrange it, but during this time she was never even referred for an evaluation. While in NYS DOCCS, because Ms. C suffered from a bilateral testicular cyst, she was provided with a bilateral orchiectomy, but DOCCS refused to provide her with the additional requested treatment, a vaginoplasty, even though she had spoken with her surgeon about it and he expressed willingness to perform the procedure.

Although Ms. C was housed in a women's jail safely in NYC DOC custody, when she was released on her own recognizance because of the risks facing her due to the pandemic, a warrant fell and DOCCS took custody of her. Instead of housing her in a women's prison, she was taken to Sing Sing, where she faced harassment and abuse. Only after our advocacy was she moved to a women's prison in DOCCS.

Experiences of Ms. D: Ms. D is a 62-year-old transgender woman who was just released from DOCCS custody at the end of 2020. Ms. D has lived as a woman for more than 40 years, since

she moved to the United States. Despite spending much of her life in custody, she has never been convicted or disciplined for any act of violence; she has been sentenced to prison for what amounts to repeated shoplifting charges. She was housed in men's prisons and jails for years, where she was harassed and threatened: objects were thrown at her, transphobic comments made, and attempts were made to touch her including while she showered. She lived in constant fear.

Following Legal Aid's demand, the NYC DOC housed her in its THU, first when it was located in one of the city's jails for men. It was not until the THU was moved to the women's jail that she felt safe, could fully program, and could obtain the basic necessities that she needed. Following our demand to NYS DOCCS that she be housed safely and respectfully, she was housed in a women's prison where she studied cosmetology, took business classes, and completed ASAT (Alcohol and Substance Abuse courses). She stayed calm, including during the pandemic, by knitting in her cell. She showered separately and met no hostility from staff or other incarcerated individuals (except for one time when a female officer refused to search her saying she didn't feel "comfortable" around transgender people).

In the fall of 2020, Ms. D was released from DOCCS custody. She is now living in her own apartment, is pursuing vocational training, and is successfully transitioning to her life in the community. As she now describes her experiences:

Being acknowledged by DOCCS as a woman, after years of having this denied, has meant the world to me. It helped immeasurably with my gaining the strength and self-respect I needed to transition to the community.

For too many years, I had suffered years of abuse and indignities while housed with men in jails and prisons. Officers would often call me "it." Or, for example, when I was housed in a dorm with almost 50 men in Rikers Island in the summer of 2017, I was repeatedly verbally and physically harassed. I never felt safe; it was almost impossible to sleep. At no other time in my life have I experienced the deep hurt and pain I felt while housed with men in jail and prison.

Because of advocacy by LAS I was finally housed with women, both in NYC DOC and NY DOCCS custody.

When I arrived in Bedford Hills in [] 2019, I was told by DOCCS that I was the only transgender woman housed in a women's prison. When I was released [at the end of] 2020, I was still one of only a handful of people housed by DOCCS consistent with their gender identity. Yet throughout--other than a small number of staff who initially did not want to search me--I was treated with respect and dignity by everyone I dealt with, including all other staff and other incarcerated people.

I was the exception; it is time that housing people in all jails and prisons consistently with their lived experience and gender identity becomes the norm. I pray to God no other transgender woman ever has to go through what I have experienced.

EXHIBIT 3

**New York City Council
Committee on Criminal Justice & Committee on Women and Gender Equity**

Hearing on Proposed Legislation: Int. 728,

January 25, 2023

The undersigned organizations are grateful for the opportunity to participate in this creation of safer, more humane laws to protect transgender, gender non-conforming, non-binary, and intersex (“TGNCNBI”) people incarcerated in the New York City jails.

We represent those at the forefront of this work as public defenders, re-entry organizations, and civil rights attorneys working with TGNCNB people as they navigate the criminal system. Our knowledge, including some direct lived experiences, informs our suggested recommendations for changes to the Proposed Legislation Int. 728-22. As experts on the actual experiences of people as they navigate from arrest, through arraignments, DOC custody, and coming home we have multiple specific and practical suggestions that we believe will support the heart and intent of the proposed legislation.

We take this time to note that there are no specialists in intersex identity and culture, medical care, and/or legal rights on the TaskForce. As such we also ask for more time to ensure that both the definition of “intersex” and the rights afforded people with intersex traits and/or identities are sufficient.

Attached please find a redlined version of the proposed legislation. We look forward to this being the beginning of a larger conversation with the goal of making the most effective and meaningful version of this bill.

Thank you,

TaskForce Members

Deborah Lolai, Director of the LGBTQ Defense Project, The Bronx Defenders

Grace DeTrevarah, LGBTQ Liaison and Senior Peer Educator, The Osborne A Association

Jennifer Lambert, Staff Attorney, Criminal Defense Practice, Neighborhood Defender Service of Harlem

Kandra Clark, Vice President of Policy & Strategy, Exodus Transitional Community

Lucas Marquez, Associate Director/Interim Acting Director, Civil Rights & Law Reform, Brooklyn Defender Services

Mik Kinkead, Staff Attorney, LGBTQ+ Law & Policy Unit, The Legal Aid Society

Natalie Fiorenzo, Corrections Specialist, New York County Defender Services

Rachel Lynn Golden, Ph.D., Founder and Director, Golden Psychology PLLC

Shéar Avory, Lead Statewide Community Organizer, NEW Pride Agenda

Organizational Support

Black and Pink NYC

The Bronx Defenders

Brooklyn Defender Services

Center for Alternative Sentencing and Employment Services (CASES)

The EAC Network

Equality New York

Exodus Transitional Community

Exponents

The Fortune Society

Gender Equality New York, Inc. (GENY)

The Lesbian, Gay, Bisexual, and Transgender Community Center

The Legal Aid Society

Neighborhood Defender Service of Harlem

New Alternatives for Homeless LGBT Youth

NEW Pride Agenda

New York County Defender Services

The Osborne Association

Women's Prison Association

By Council Members Powers, Cabán, Rivera, Hanif, Brewer, Restler, Hudson, Ung, Joseph, Abreu, Avilés, Ossé and Sanchez

A Local Law to amend the administrative code of the city of New York, in relation to housing decisions for transgender, gender nonconforming and intersex individuals

Be it enacted by the Council as follows:

1 Section 1. Chapter 1 of title 9 of the administrative code of the city of New York is amended
2 by adding a new section 9-163 to read as follows:

3 § 9-163 Housing requests related to gender identity. a. Definitions. For the purposes of this
4 section, the following terms have the following meanings:

5 Gender identity. The term “gender identity” means a person’s sense of their own gender
6 which may be the same as or different from their sex assigned at birth

7 Gender nonconforming. The term “gender nonconforming” means a person whose
8 behavior or appearance does not conform to the traditional expectations of men and women, of
9 their gender, which may includes a person who is transgender.

10 Intersex. The term “intersex” refers to a person whose physical sex characteristics do not
11 conform to a binary construction of sex as either male or female.

12 Non-binary. The term “non-binary” refers to a person whose gender identity is not
13 exclusively male or female, which may include a person who is transgender.

14 Transgender. The term “transgender” refers to a person whose gender identity does not
15 conform to the sex assigned at birth.

16 b. At arraignments each person charged to the care, custody and control of the department
17 shall be advised on the record that they have the right to be held in an intake facility that aligns
18 with both their gender identity and personal sense of safety. The person shall further be advised

1 that following the arraignment appearance the department will ask them in a confidential space
2 about whether a men's or women's intake facility best matches their sense of safety and gender
3 identity and that, once at the intake facility, the department will conduct further screening
4 concerning housing placement. The department must honor the individual's choice regarding
5 intake facility.

6 c. Upon the department being ordered to take custody of an individual immediately
7 following arraignment or return on any warrant or parole violation, any individual identifying as
8 transgender, gender nonconforming, non-binary and/or intersex shall have access to a confidential
9 space within the courthouse and prior to transportation to any jail facility in which to disclose
10 whether a men's or women's intake facility is best for their personal sense of identity and safety.
11 This interview shall be conducted by a department staff member who has received training from
12 the LGBTQIA+ Initiatives unit within the department. The decision by the detained or otherwise
13 held individual as to whether a men's or women's intake facility is appropriate shall be followed
14 in every instance and supersedes any other documents used to determine intake placement.

15 d. Once in an intake facility, and at any time upon transfer to another facility, the
16 department ~~Subject to section 115 of title 28 of the code of federal regulations, the department~~
17 shall assess all incarcerated individuals during an intake screening and upon transfer to another
18 facility for their risk of being sexually abused by other incarcerated individuals or sexually abusive
19 toward other incarcerated individuals. The department shall consider, at minimum, the following
20 criteria to assess incarcerated individuals for risk of sexual victimization:

- 21 1. Whether the incarcerated individual has a mental, physical or developmental disability;
- 22 2. The age of the incarcerated individual;
- 23 3. The physical build of the incarcerated individual;

1 4. Whether the incarcerated individual has previously been incarcerated;

2 5. Whether the incarcerated individual's criminal history is exclusively nonviolent;

3 6. Whether the incarcerated individual has prior convictions for sex offenses against an
4 adult or child;

5 7. Whether the incarcerated individual is or is perceived to be gay, lesbian, bisexual,
6 transgender, intersex, non-binary or gender nonconforming;

7 8. Whether the incarcerated individual has previously experienced sexual victimization;

8 9. The incarcerated individual's own perception of vulnerability; and

9 10. Whether the incarcerated individual is detained solely for civil immigration purposes.

10 ce. Subject to section 115 of title 28 of the code of federal regulations, †The department
11 shall establish a process for transgender, intersex, non-binary and gender nonconforming
12 individuals to self-identify as such during intake and to use such self-identification to make
13 housing and programming assignments on an individualized basis. The department shall house a
14 person in a facility most closely aligned with their gender identity and in the manner most similar
15 to a cisgender person facing similar security needs unless (1) the person does not want to be so
16 housed or (2) the department can overcome such a presumption by a determination in writing by
17 the Commissioner or the Commissioner's designee that there is clear and convincing evidence that
18 such person presents a current danger of committing gender-based violence against others. Such a
19 denial cannot be based on any discriminatory reasons including but limited to:

20 1. past or current sex characteristics including chromosomes, genitals, gonads, or
21 any external reproductive anatomy, secondary sex characteristics, or hormone
22 levels and functions of the person whose housing is at issue;

23 2. the sexual orientation of the person whose housing is at issue

- 1 3. complaints of other incarcerated people who do not wish to be with a
2 transgender, gender nonconforming, non-binary, and/or intersex person due to
3 the person's gender identity or perceived gender identity or sexuality or
4 perceived sexuality;
5 4. a factor present among other people confined or previously confined in the
6 presumptive housing unit or facility;
7 5. classification as a different gender during a previous incarceration; or
8 6. absence of documentation or other evidence indicating medical transition.

9 f. At a minimum in any facility designated by the department as housing women, the
10 department shall maintain a voluntary unit known as the Special Considerations Unit which houses
11 transgender, intersex, non-binary, and gender nonconforming individuals and other vulnerable
12 people. Such a unit shall be staffed by persons trained and knowledgeable in the particular
13 experiences and needs of such persons.

14 ~~g. In determining such housing and programming assignments, the department shall~~
15 ~~consider whether a placement would ensure the incarcerated individual's health and safety and~~
16 ~~whether the placement would present management or security problems. The department shall not~~
17 ~~prevent incarcerated individuals from identifying as transgender, intersex or gender~~
18 ~~nonconforming solely because of classification as a different gender while previously incarcerated~~
19 ~~or because of the absence of documents indicating medical transition.~~

20 d. Subject to section 115 of title 28 of the code of federal regulations, †The department shall
21 establish a process for allowing transgender, intersex, non-binary and gender nonconforming
22 individuals who have requested entrance into a type of housing facility due to identifying as
23 transgender, intersex, non-binary or gender nonconforming to appeal denials of such requests. The

1 department shall maintain formal written procedures consistent with this policy and with the
2 following provisions:

3 1. The department shall have forty-eight hours to render a decision denying request as
4 described in subsection (e) above. It must provide a denial of the requested placement in writing
5 to the affected person within twenty-four hours of the Department's decision. The decision shall
6 include a description of all evidence supporting the decision and an explanation as to why the
7 evidence supports a determination that the individual presents a current danger of committing
8 gender-based violence against others. All supporting documentation shall be attached to the written
9 decision but may be redacted as necessary to protect any person's privacy or safety.
10 Unsubstantiated allegations shall not be considered clear and convincing evidence.

11 2. The department shall provide written notice to such individuals that such a determination
12 may be appealed and shall describe the appeals process in plain and simple language. The
13 department shall ensure that such written notice is available in English and the designated citywide
14 languages as defined in section 23-1101.

15 3. Any individual denied gender-aligned or Special Considerations Unit housing has the
16 right to re-apply for such housing at any time when there is information that was not previously
17 submitted or if previous information was not properly weighed.

18 4.2. The department shall create an appellate review board consisting of the commissioner
19 of correction or their designee, the deputy commissioner responsible for determining housing
20 classifications or their designee, an appropriate member of correctional health services
21 knowledgeable in medical and mental health issues specific to transgender, intersex, non-binary
22 and gender nonconforming individuals, and the director of LGBTQIA+ Initiatives or their designee
23 to review the initial decision. and the vice president of correctional health services or their designee

1 ~~to review the initial decision.~~ The appellate review board shall not include individuals who made
2 the initial housing determinations.

3 ~~5.3.~~ The department shall immediately forward all appeals to the board of correction. The
4 board of correction shall issue a written opinion within 24 hours of receipt of an appeal.

5 ~~46.~~ The appellate review board shall issue a determination within 48 hours of receipt of
6 any appeal and shall consider the written opinion of the board of correction in making its
7 determination.

8 ~~57.~~ Within 24 hours of making its determination, the appellate review board shall provide
9 the incarcerated individual with a written copy of the determination specifying the facts and
10 reasons underlying such determination as well as the evidence relied upon, subject to redactions
11 required by law. Whenever the appellate review board's decision differs from the written opinion
12 of the board of correction, the appellate review board shall explain why it did not follow the
13 recommendation of the board of correction. Upon request by the incarcerated individual or their
14 counsel, the appellate review board shall provide a copy of the decision and the evidence relied
15 upon, subject to redactions required by law, to counsel.

16 ~~68.~~ The department shall provide all written materials regarding the appeals process in
17 English and the designated citywide languages as defined in section 23-1101 and shall ensure that
18 incarcerated individuals are given any verbal assistance necessary to meaningfully understand such
19 procedures.

20 ~~9.~~ All materials detailed above in paragraphs 1, 6, 7, and 8 shall also be provided, with
21 necessary privacy redactions, to the City Council Taskforce on Issues Affecting TGNCNBI People
22 in the City Jails (see Local Law 145 of 2019) for review in a timely manner before each monthly
23 meeting.

1 § 2. Section 626 of the New York city charter, as amended by local law number 133 for
2 the year 2019, is amended by adding a new subsection i to read as follows:

3 i. The board shall issue opinions to the department regarding appeals of housing requests
4 related to gender identity.

5 § 3. This local law takes effect 90 days after it becomes law.

Session 12

AM

LS # 8279/10322

7/26/22

Session 11

AS

LS # 8238

Int. # 1532 - 2019

EXHIBIT 4



**CORRECTION DEPARTMENT
CITY OF NEW YORK**



SCU REQUEST FOR RECONSIDERATION FORM

FORM NO. XXXX
DIR XXXX

Date: _____

Requester's Name: _____

NYSID Number: _____

Book and Case Number: _____

Gender Identity: _____

Preferred Housing: _____

Search Preference: _____

Reason for Reconsideration:

Separation Order: YES N/A (If YES - Write persons information below who is no longer incarcerated)

Name: _____

NYSID: _____

Book and Case Number: _____

2. My behavioral issues have improved. I have not received an infraction or involved in an incident in _____ months.

3. I am supplying additional documentation that will support my placement in SCU.
(Note: Additional documentation could be staff support, medical documentation, MH documentation)

Staff Members

- | | | | | |
|--------------------------|------------------|-------|-------|-------|
| <input type="checkbox"/> | Staff Support: | _____ | _____ | _____ |
| <input type="checkbox"/> | Medical support: | _____ | _____ | _____ |
| <input type="checkbox"/> | MH Support | _____ | _____ | _____ |
| <input type="checkbox"/> | Other Support | _____ | _____ | _____ |

4. Other

Incarcerated Individual's Signature _____

EXHIBIT 5

Passing GIRDS Brings New York State into alignment with...

at least 17 New York Counties

Broome County – After public litigation, **in 2023**, Broome County agreed to a wide-sweeping policy that affirms the rights of transgender people with respect to housing placement, access to medical care, searches, and freedom from harassment and discrimination. This settlement also resulted in a damages payment of \$160,000 to the survivor of the mistreatment and has encouraged multiple counties across New York to voluntarily rectify their own policies. However this piecemeal access to justice is not enough. Transgender, non-binary, and intersex New Yorkers deserve access to consistent and clear rights across the entire state.

Steuben County – **in 2020**, a landmark settlement was reached requiring Steuben County to adopt policies affirming the rights of transgender, non-binary, and intersex people with respect to housing placement, access to medical care, searches, and freedom from harassment and discrimination. This policy was approved by the New York State Sheriffs' Association and has served as a model for jails across New York state and the country.

Cayuga, Fulton, and Yates Counties – **in 2023**, the counties voluntarily implemented policies that are nearly identical to Steuben County's.

Chemung and Schoharie Counties – **in 2023**, the counties voluntarily implemented policies that are identical to Steuben County's.

Herkimer and Putnam Counties – **in 2023**, the counties voluntarily implemented policies that are identical to Broome County's.

Lewis County – **in 2024**, the county voluntarily implemented a policy that is nearly identical to Broome County's.

Montgomery County – **in 2023**, the county voluntarily adopted a policy that is a mix of the Broome and Steuben County policies.

Ontario County – **in 2021**, the county voluntarily adopted a policy that is similar to Steuben County's.

Schuyler County – **in 2024**, the county voluntarily adopted a policy that is identical to Steuben County's.

St. Lawrence County – in 2024, the county voluntarily adopted a policy requiring that housing be “consistent with gender identity or within the unit. . . the inmate believes is safest for them.” The policy also affirms the rights of transgender, non-binary, and intersex people with respect to names and pronouns, access to medical care, searches, and access to clothing and toiletry items.

And, **Erie, Madison, and Warren Counties** have all voluntarily adopted policies that are similar or identical to Broome and/or Steuben County’s policies. Additional counties have reported that they are in the process of developing Broome and Steuben-like policies.

U.S. States

California – passed SB 132, The Transgender Respect, Agency, and Dignity Act, which “requires [California Department of Corrections and Rehabilitation] to ask each individual entering into its custody to specify gender identity, pronoun, honorific, and search preference. It also requires that individuals be housed according to gender identity and individual preference.” This follows extensive individual litigation by transgender people against the state resulting in hundred-thousand dollar settlements. This law has been in place **since 2020**.

Colorado – after extensive litigation, Colorado entered into a settlement in **early 2024** creating a new path to gender-affirming housing for individuals in state facilities. This follows extensive individual litigation by transgender people against the state resulting in hundred-thousand dollar settlements.

Connecticut – passed SB 13, An Act Concerning the Fair Treatment of Incarcerated Persons, which ensures “all individuals are treated consistent with their gender identity including with regard to strip searches and access to clothing, commissary items and educational materials, as well as housing based on their recognized gender.” This has been law **since 2018**.

New Jersey – following prolonged litigation, New Jersey agreed to a settlement “to make it customary for prisoners who identify as transgender, intersex or nonbinary to be assigned a prison stay in line with their gender identity — not with the sex they were assigned at birth.” This settlement has been in place **since 2021**.

Rhode Island – after listening to intense public pressure and advocacy, the Rhode Island Department of Corrections implemented a new policy that allows for the transfer of individuals to gender affirming prisons, and implements additional housing, search, medical, and other rights. This policy was implemented **in 2022**.

Massachusetts – passed the law known as Prisoner Gender Identity, which modified housing decisions so that individuals who are transgender, non-binary, or intersex “shall be housed in a correctional facility with inmates with the same gender identity ... consistent with the prisoner’s request”. This law has been in effect **since late 2018**.

Washington D.C. – after extensive litigation, the DC Metropolitan Police Department agreed to create a new policy for housing transgender detainees in closer alignment with their gender identities. The policy has been in place **since 2018**.

...and around the world!

Canada – the entire country of Canada adopted a correctional policy giving Two Spirit, transgender, intersex, and non-binary individuals the ability to choose whether a men’s or women’s prison would be safer for their incarceration. This has been the law **since 2017**.

England and Wales – England and Wales have maintained laws allowing for individuals to be located in the prison of their gender as recognized by the United Kingdom government **since 2011**.

EXHIBIT 6

By Council Members Cabán, Hudson and Hanif

A Local Law in relation to extending the minimum duration of and updating other requirements pertaining to the task force created to address policies related to the treatment and housing of transgender, gender nonconforming, non-binary, and intersex individuals in the custody of the department of correction

Be it enacted by the Council as follows:

1 Section 1. Section 1 of local law number 145 for the year 2019 is amended to read as
2 follows:

3 Section 1. a. Definitions. For purposes of this local law, the term “correctional health
4 services” means any health care entity designated by the city of New York as the agency or
5 agencies responsible for health services for incarcerated individuals in the care and custody of the
6 department of correction. When the responsibility is contractually shared with an outside provider,
7 this term shall also apply.

8 b. The board of correction shall convene a task force to review the department of
9 correction’s policies related to the treatment and housing of transgender, gender nonconforming,
10 non-binary, and intersex (TGNCNBI) individuals in the department of correction’s custody. In so
11 convening the board of correction will provide for the following:

- 12 i. translation support at all meetings
- 13 ii. arrange for transcripts of minutes of meetings
- 14 iii. provide tangible support in the publication of the Report mentioned below in

15 (h),

- 16 iv. maintain a library of documents provided to the Task Force that is accessible to
- 17 all Task Force members; and

- 18 v. other administrative support commonly made available to city agencies

1 [b.] c. Such task force shall consist of a representative appointed by the speaker of the
2 council or upon leaving the representative's designee and a representative from each of the
3 following who shall serve at the pleasure of the appointing [agency] officer: the department of
4 correction, correctional health services, the commission on human rights, the mayor's office to
5 end domestic and gender-based violence, and the [nyc] NYC unity project within the office of the
6 mayor or similar organization[, and the council]. Such appointees shall have meaningful working
7 knowledge on cultural, medical, and/or legal rights of transgender, non-binary, gender non-
8 conforming, and/or intersex individuals. Such task force shall also include at least one
9 representative from each of the following categories, appointed by the board of correction: (i)
10 formerly incarcerated individuals; (ii) individuals formerly or currently incarcerated in the special
11 consideration unit(s) or any subsequent voluntary housing for transgender individuals, to the extent
12 practicable; (iii) service providers that address transgender, gender nonconforming, non-binary,
13 and intersex individuals in the custody of the department of correction; and (iv) local and national
14 organizations that address issues related to transgender, gender nonconforming, non-binary, and
15 intersex individuals Members of such task force shall elect a chair from among such members.

16 x. To the extent that (c)(i) might not be "practicable" the department of correction and the
17 board of correction will work with the task force to create methods for currently incarcerated
18 people to send information to the task force.

19 i. The board of correction will work to forward any/all messages left by TGNCNBI
20 people or mentioning TGNCNBI issues to the task force in advance of the twice-monthly
21 meetings. Such messages shall include the name and book and case number when
22 applicable and the message. Information on how to reach the board of correction for
23 complaints involving TGNCNBI concerns will be posted both in housing units and law

1 libraries as well as within the “LGBTQ” folder of the tablets provided to incarcerated
2 people. The wording of the signage will be determined by the board of correction, the
3 department of correction, and task force members but, at a minimum, it will be available
4 in Spanish and English.

5 ii. The department of correction will send staff members from the LGBTQIA+
6 Initiatives Unit to the special considerations housing unit in advance of the twice-monthly
7 task force meeting and ask if any member or members wish to participate via video or
8 audio call, which the department will then arrange.

9 iii. The board of correction website, including the page on this task force inclusive
10 of reports and minutes, will be made accessible to individuals in custody via their tablets.

11 [c.] d. Any vacancies in the membership of [the] such task force shall be filled in the same
12 manner as the original appointment. All members shall be appointed to [the] such task force within
13 60 days of the effective date of this local law.

14 [d.] e. Members of [the] such task force shall serve without compensation and at a
15 minimum shall meet every two months .

16 x. The department of correction shall work with task force members to provide tours of the
17 facilities most commonly housing TGNCNBI individuals. Such tours shall consist of intake cells,
18 housing units (inclusive of shower and bathroom areas), program areas and recreational areas. Law
19 library and general library resources will be made available for review. These tours will be
20 inclusive of the Special Considerations Unit and any similar such units. For these purposes any
21 unit with two or more TGNCNBI identified individuals should be included on the tours.

22 i. These tours shall be arranged at a minimum twice per year.

1 ii. Incarcerated individuals will be allowed to speak to task force members who are
2 touring and provide their name and book and case number for follow-up conversations;
3 likewise task force members will be allowed to provide their contact information in writing,
4 including by providing their business cards.

5 ii. Notice of these tours shall be shared seven (7) days in advance so that individuals
6 who wish to talk to task force members can make these arrangements.

7 [e.] f. Prior to each meeting of such task force, the members of such task force appointed
8 by the board of correction may set an agenda for such meeting and may prepare a list of questions
9 for the representatives from the department of correction and correctional health services
10 appointed pursuant to subdivision c of this section, which agenda and list shall be delivered to all
11 members of such task force within 7 days prior to such meeting except to the extent urgent or
12 unexpected circumstances arise. The representatives from the department of correction and
13 correctional health services appointed pursuant to subdivision c of this section shall present at such
14 meeting information on transgender, gender nonconforming, non-binary, and intersex individuals
15 in the custody of the department of correction that is responsive to the questions prepared pursuant
16 to this subdivision. If representatives with meaningful working knowledge needed to respond to
17 the questions cannot attend, then answers will be provided in writing on the day of the meeting.

18 x. The Department of Correction and Correctional Health Services will provide the Task
19 Force membership with current policies impacting the treatment of TGNCNBI people in custody.

20 g. In addition to presenting the information required pursuant to subdivision f and x of this
21 section, representatives from the department of correction and correctional health services
22 appointed pursuant to subdivision c of this section shall provide updates at each meeting of such
23 task force on:

1 1. Any changes to the rules or policies of the department of correction or correctional health
2 services related to the treatment or housing of TGNCNBI individuals in the custody of the
3 department of correction or will disproportionately affect TGNCNBI people in custody must be
4 provided in writing;

5 2. Each instance in which a transgender, gender nonconforming, non-binary, or intersex
6 individual in the custody of the department of correction was moved from one housing unit within
7 such department to another since the last meeting of such task force. Such information will include
8 whether the move was voluntary or involuntary and whether the person was transferred from
9 gender aligned housing to gender mis-aligned housing, whether the person was transferred but the
10 gender alignment remains the same, or whether the person was transferred from gender mis-
11 aligned to gender-aligned housing and the reason(s) for such transfer as well as the type of housing
12 the individual is now in;

13 x. Any time changes to how TGNCNBI individuals will be housed are contemplated – such
14 as the opening of a new housing unit, the move of more than four individuals in a housing unit, or
15 the closing of a housing unit - the department shall inform the task force thirty (30) days in advance
16 in order to receive feedback; and

17 3. Any opportunities for the task force to provide opinions or feedback on any potential
18 policy changes or partnerships that DOC is considering implementing prior to finalization. If the
19 Department or CHS are contemplating updates to policy or changes to ongoing partnerships the
20 Task Force must be informed at least in broad strokes of what is being considered so that they may
21 lend their expertise on the subject.

22 h. Within one year of the formation of [the] such task force, such task force shall submit a
23 report containing recommendations regarding policies related to the treatment and housing of

1 transgender, gender nonconforming, non-binary, and intersex individuals in the department of
2 correction's custody, and a summary of key findings to the department of correction, mayor and
3 the speaker of the council. Within 90 days of receiving such report, the department of correction
4 shall provide a written response to the board of correction, the mayor, and the council. Each such
5 written report shall be posted on the department of [correction] correction's and the board of
6 correction's websites in a format that is searchable and downloadable and that facilitates printing
7 no later than 10 days after it is delivered to the mayor and the council.

8 i. [The] Such task force shall continue to submit reports, including in 2024 and as
9 needed but no less than every two years. Each subsequent report shall be submitted to the
10 department of correction, mayor and the speaker of the council. Within 90 days of receiving such
11 report, the department of correction shall provide a written response to the board of correction, the
12 mayor, and the council. Each such written report shall be posted on the department of [correction]
13 correction's and the board of correction's websites in a format that is searchable and downloadable
14 and that facilitates printing no later than 10 days after it is delivered to the mayor and the council.
15 Within 60 days of receipt of the written response the city council shall hold a hearing which
16 representatives of the board of correction, department of correction, and correctional health
17 services must attend and must remain until the meeting is adjourned. Notice of such hearing shall
18 be posted at least 30 days before the hearing in all housing units, medical areas and law libraries
19 of all facilities operated by the department of correction and procedures must be implemented to
20 permit all incarcerated individuals who wish to testify to do so.

21 [f. The] i. Such task force shall terminate by determination of the board of correction, but
22 no earlier than one year after the issuance of a [final] fifth report[, to be submitted in the year
23 2031]. Any time a new correctional facility is built, the board of correction shall have the option

1 to reconvene [the taskforce] such task force for the purpose of reviewing implementation of
2 policies related to the treatment of transgender, gender nonconforming, non-binary, and intersex
3 individuals in such facilities.

§ 2. This local law takes effect immediately. The task force established pursuant to local law number 145 for the year 2019 shall meet within 90 days of such effective date to elect a chair as required by section one of this local law and at such meeting may conduct such other business as such task force deems necessary.

Session13
LS #13652
01/10/2024

Session 12
SA
LS #13652
11/3/2023 10:59 AM



September 23, 2024

My name is Tom Harris, and I am the President of the Times Square Alliance, the business improvement district that exists to make Times Square clean, safe, and desirable for all. I appreciate the opportunity to testify today as part of the City Council's joint oversight hearing on the B-HEARD program and responses to mental health crises. I would like to commend the Administration and the City Council for making robust support for mental health services a continued priority.

 Since 2020, the Alliance has been an active partner with multiple social service providers, including Breaking Ground, the Center for Justice Innovation, and Fountain House, to provide outreach and direct persons in need to services. We utilize a neighborhood-based outreach program that is based on consistent interaction with people on the street, earning their trust, and working to get them connected with the services and treatment they need to achieve a more stable life. Recently, we have also begun a partnership with the New York State Office of Mental Health, and we now have a dedicated Services and Support Team (S.O.S.) working with our community members on the street.

Many of the people we have come to know since starting this program are suffering from severe mental illness. Often, these individuals are clearly deeply in crisis, and yet the most resistant to accepting help as they fail to perceive that they are ill. We have identified ten community members with whom we and our social service partners have engaged with most frequently on the street, and who represent the greatest need. Those ten individuals have each spent an average of four years on the streets, and in some cases many more than that. We and our partners have spent years outreaching to these clients, yet despite these attempts to offer services and build trust, they remain outside, in crisis.

One of our community members, on the street for six years, lives in an encampment laden with flammable materials. Another homeless man, with a history of violent behavior and threatening members of the public, has lived on the streets of Times Square for the last six years. A woman has been on our streets for five years, has clear signs of psychosis, yet denies both that she is homeless and rejects any offer of services. A man living on our streets is known to remove his clothes, fake seizures, and walk into traffic.

In some cases, these individuals have put themselves in danger or threatened violence to others. In the past year, we have had to call 911 and request NYPD assistance for nine of our community members – sometimes several times for the same individual. All were then taken to the hospital, only to return in days, or sometimes hours, to our streets and public spaces.

There have to be better solutions. We know that having the NYPD respond to persons in mental health crisis is not the best way to link these individuals with the treatment they desperately need. We strongly support Council Member Bottcher's request to expand the B-HEARD response teams to West Midtown, so behavioral health professionals can appropriately handle these situations, with or without NYPD assistance.

However, the city cannot strengthen and expand the B-HEARD program without enough qualified mental health professionals. We ask that the Council support our efforts to lobby the state legislature to expand the scope of professionals able to conduct psychiatric assessments of clients on streets and in public spaces. Outcomes for patients evaluated and taken to the hospital for treatment by a mental health professional are far better and lead more often to longer-term treatment and housing. We are also asking the state to ensure that when clients do go to the hospital, they are properly screened for mental health disorders and provided with appropriate care plans after discharge, including Assisted Outpatient Treatment when indicated.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "Tom Harris", with a long horizontal line extending to the right.

Tom Harris

President

Times Square Alliance



Mental Health Project

New York City Council
Committee on Criminal Justice
Friday, September 27, 2024
250 Broadway, 16th floor committee room
New York, NY

Testimony of
Jennifer J. Parish
Director of Criminal Justice Advocacy
Urban Justice Center Mental Health Project
[REDACTED] • jparish@urbanjustice.org

Thank you for the opportunity to comment on the important legislation being considered by this committee. My name is Jennifer Parish, and I am director of criminal justice advocacy at the Urban Justice Center Mental Health Project.

For 25 years, the Mental Health Project has advocated for people with mental health concerns involved in the criminal legal system. We are deeply familiar with the difficulties people with mental health concerns who are involved in the criminal legal system have in accessing essential mental health services. We represent the *Brad H. Class*, all incarcerated individuals who receive mental health treatment while in NYC jails. Currently the *Brad H. Class* comprises more than half of the city jail population.

First, I want to thank the Council Members who are sponsoring and co-sponsoring the bills being heard today. The proposed legislation demonstrates that you have been paying attention to what is happening in the city jails, what is said in these hearings, what is reported in the press, and most importantly what challenges persons incarcerated and their loved ones face in this brutal system. Many of these bills are formulated to address the systemic failures that harm people who are incarcerated. Together they demonstrate that you recognize the humanity of people who are incarcerated.

Intro 151

In fact, Intro 151 requires that the language of our laws reflect the humanity of people who are incarcerated by eliminating demeaning and dehumanizing terms in the New York city charter, administrative code, plumbing code, and building code and replacing them with terms that

reference persons first, not their circumstances. We support this bill which acknowledges that how we *speak* about people affects how we *treat* them.

Intro 412

Intro 412 is also about the humanity of persons incarcerated and their family and loved ones – recognizing that people in jail have connections in the community who care about their safety and well-being. The bill requires Correctional Health Services (CHS) to ask persons incarcerated whether they want someone to be notified if they attempt suicide, are hospitalized, or are seriously injured and if so, identify who that emergency contacts is.

That minimal level of human consideration should be relatively straightforward to achieve. CHS already asks persons incarcerated to complete several authorizations during intake. Creating a form and implementing a process to memorialize the person’s wishes regarding emergency contact notification if the person experiences future hospitalization, serious injury, and/or suicide attempt would not be overly burdensome. CHS Patient Relations department should be able to reach out to the emergency contact when one of these significant incidents occurs and let them know. While the hospital treatment provider may ultimately be best positioned to communicate with the person’s emergency contact about the person’s medical condition, CHS Patient Relations staff can provide information about the hospital to which the person is being transported and share emergency contact information with the hospital.

We strongly support this bill and urge that the language be clarified to indicate that the person can select which circumstances in which their emergency contact should be notified – hospitalization, serious injury, or suicide attempt – and that notification is not a yes or no question but three separate inquiries about the three types of situations delineated in the law.

Intro 423

Intro 423 is also about respecting the dignity of the next of kin of a person who dies in custody by establishing procedures for notification of a death, return of personal property, and access to video footage so that families do not learn of the death of their loved one through the press or social media and are not required to navigate unnecessarily bureaucratic processes to obtain their loved one’s belongings and learn more about the circumstances of their death.

Intro 423 is certainly not what we want most regarding deaths in custody – we would much rather *prevent* them all together. No one should go to jail, especially in New York City, in a state that has no death penalty, and lose their lives while awaiting trial or serving a jail sentence. It is unacceptable that people are not safe in these jails, but they aren’t, and it is unconscionable that judges continue to send more and more people there. Currently more than 6500 people are incarcerated in city jails, including more than 3500 people receiving mental health treatment, with 1300 diagnosed with a “serious mental illness.”

As long as people are held in these deadly jails, we need the requirements related to death investigations that Intro 423 provides. At a minimum the bill ensures transparency about when deaths in the jails occur. Without a law requiring the Department of Correction (DOC) to make

public a death in custody, the Department can refuse to report them as the previous commissioner Lous Molina announced he would do.

The bill's requirement that the Board of Correction investigate and publish preliminary and final reports about every death in custody is also critically important because the Board had not been regularly publicly reporting on deaths in custody prior to May 2022. To its credit the Board has now produced reports on 39 deaths in custody since then. But none of the 16 deaths in 2021 were reported on until September 2022 – and that report covered only 10 of the deaths. Even this year the Board chose not to investigate and issue a report on Roy Savage's death because he was in the hospital for the entirety of his time in DOC custody. But Mr. Savage's sister Khadira Savage has identified DOC failures that occurred before his death. A BOC investigation of whether DOC directives and Health + Hospital procedures were followed during Mr. Savage's time in custody to identify possible areas of improvement is certainly needed.

Another important provision of Intro 423 is the requirement that DOC and CHS respond to the Board's recommendation. While CHS regularly issues a response to the Board's report, DOC had not submitted a written response to any of the seven reports issued since May 2022. In each report the Board makes recommendations to the Department about actions it should take going forward. Many of the Board's recommendations have been repeated from one report to the next, indicating that necessary remedial actions have not been implemented. Requiring the Department to consider these recommendations and publicly respond to them will provide transparency regarding how DOC intends to remedy the problems identified and may result in the Department more carefully considering the Board's recommendations.

Finally, we hope that the bill's requirement that a jail death review board composed of leaders of the relevant agencies be convened to examine systemic issues will prevent future deaths. Requiring annual reporting of the actions taken to address these issues should bring some additional accountability and transparency.

We wholeheartedly support this bill and urge the Council to pass it without delay.

Intro 206

Training correction staff on administering opioid antagonists and requiring them to carry them while on duty could prevent future deaths of people in custody. We support this bill.

Intro 1036

We also support Intro 1036 which requires reporting on people whose competency to stand trial is being evaluated. Delays in this process result in people with significant mental health treatment needs being incarcerated longer. A person's criminal case cannot move forward until the question of their competency has been resolved. It can take weeks or even months for the examination to occur. Then if the person is found not competent to proceed, there is a significant delay in their transfer out of DOC custody. In addition to extending their incarceration, the delay also results in people whose mental health is severely affected remaining in jail in a vulnerable

state. Jail is not a safe place generally, and it is certainly not the place where people who lack competency should be detained.

Documenting the length of these delays and the number of people affected will help to identify bottlenecks in the process and inform the solutions that must be developed to move people more quickly through this process or better yet provide for them to be evaluated in the community.

Intro 625

For far too long, people who are transgender, gender nonconforming, non-binary, and intersex (TGNCNBI) in DOC custody have endured demeaning and abusive treatment, had their safety put in jeopardy due to DOC housing decisions, and have been sexually assaulted. We strongly support the Council’s effort to require that DOC’s housing and programming assignments prioritize an individual’s determination of the housing that aligns with both their gender identity and personal sense of safety and to create a process for individuals who are TGNCNBI to challenge denials of their requested housing assignment.

We also support the **Intro 152** and **Intro 1027** which are designed to improve conditions for people who are TGNCNBI in DOC custody.

Intro 1023

The hurdles to visiting a person who is incarcerated are extensive. The Department’s practices place a tremendous burden on families and friends of people in custody. Intro 1023 which requires an online scheduling system might result in some improvement to the process and reduce wait times for visits. However, we are concerned that without explicit provisions prohibiting it, the Department will use online scheduling to greater restrict access to visits. Individuals must have the right to visit people in custody *without* scheduling the visit in advance. Many people do not have access to the technology needed to schedule a visit online. In addition, people who schedule a visit online but arrive late must be allowed to have the visit anyway. Transportation to Rikers Island is too unreliable to require that people who schedule a visit online can only participate in such a visit if they arrive at the scheduled time.

Intro 420

We support establishing a child visitor program.

* * *

Thank you for the opportunity to testify about this legislation.



Freedom
Agenda

**Testimony to the City Council Committee on Criminal Justice
Submitted by Sarita Daftary on behalf of Freedom Agenda
September 27, 2024**

Chair Nurse and Committee Members,

We are grateful to the Council for scheduling a hearing on a number of important bills before this committee.

Our members and so many New Yorkers have long known that the Department of Correction requires a complete overhaul. This has only become more true as the Adams administration has resisted all measures of accountability and transparency.

As we continue to work toward reducing the jail population and closing the Rikers Island jails, the City Council must continue to use the full extent of its power to legislate in the areas where you can. This is especially true because we know that the agencies operating NYC jails will not, on their own, take even basic steps to recognize the humanity of people detained there and the people who care about them.

Below, we outline our support for various pieces of legislation you are hearing today, and suggested amendments.

Intro 423 re: Death Investigations

- Our membership includes several family members whose loved ones have died in DOC custody. Across the board, they have told us how their treatment by DOC after the tragic loss of their loved one deepened their pain – from receiving no notification or completely uncompassionate notification from DOC staff, to being unable to retrieve their belongings, and being denied video footage.
- This legislation will address gaps in current laws by requiring that when a person dies in DOC custody,
 - o DOC must notify the public (which the Adams’ administration said last year it would stop doing).
 - o BOC must issue a preliminary report within 10 days and a final report within 6 months, containing specific information. There is currently no set timeline for releasing death investigations.
 - o DOC must publicly report the names of employees involved in circumstances that contributed to any death in custody, the status of any related staff misconduct case, and the status of their employment and any misconduct cases. There is currently no public information about this. This stands in contract to deaths at the

hands of police officers – in which family members and the public have transparency about the officers involved and the status of any discipline.

- Each death must be reviewed by a Jail Death Review Board to examine systemic issues that contributed to deaths in custody – an important measure to prevent future tragedies. Thirty-three people have died in or immediately after release from DOC custody since Mayor Adams took office. This must stop.
- DOC would also be required to report on compassionate releases – people who have been in DOC custody just before “release,” but whose deaths are not technically counted as deaths in DOC custody, like Antonio Bradley, Robert Pondexter and Charizma Jones. DOC has tried to hide these deaths, including former Commissioner Molina being on record trying to get Robert Pondexter “off the department’s count” before he died.
- The Board of Correction should be given adequate resources to deliver on its mandate, including publishing death investigations within a set period of time.
- **We urge City Council to pass this legislation without delay. We suggest two small amendments to this bill, after careful review by our members who have experienced the death of a family member in custody:**
 - o Notification of deaths in custody should be delivered to next of kin by chaplains, as is the practice in the state prison system.
 - o If DOC does not have a next of kin on file, and CHS does not any emergency contacts on file, DOC should contact the people who have sent commissary funds to the person in custody or visited them, and attempt to locate a next of kin.

Intro 412 re: Serious Injuries, Hospitalizations, and Suicide Attempts

- Our membership includes many individuals who have suffered medical emergencies in DOC custody, and family members of those who have. Typically, family members hear about their loved one’s injuries from another person in custody, or days later, when their loved one has returned from the hospital.
- Serious injuries in DOC custody are disturbingly common. The Nunez Federal Monitor’s October 2023 report, gave the example of a one-week period in September 2023 when “145 uses of force, 12 stabbings/slashings, 74 fights among incarcerated individuals, 48 individuals engaged in self-injurious behavior, 3 medical emergencies, 5 individuals that received Narcan, 15 fires, 34 assaults on staff, and 19 serious injuries were reported.”
- **We urge City Council to pass this legislation without delay. We suggest one amendment to this bill, after careful review by our members:**
 - o In addition to emergency contacts and defense attorneys, CHS should also request authorization to contact people who have visited or sent commissary funds to an individual in custody, if they are seriously injured and an emergency contact or defense attorney cannot be reached. We suggest this because some people may be hesitant when entering jail to let any family members know they are there, without thinking of what may happen in an emergency.

Intro 420, 1023, 1026 re: visiting

- We support the intent of these pieces of legislation that aim to improve visiting access and transparency around the visiting process
- Re Intro 420:
 - o We suggest this bill be strengthened by requiring a maximum waiting time for child visitors (no more than 1 hour) and require DOC to provide disinfecting products, like sanitary wipes.
 - o Additionally, we support the amendments to the legislation proposed by the Osborne Association.
- Re: Intro 1023:
 - o It's important that this bill be amended to clearly establish that pre-registration for in-person visits is optional, not required, and that people will still be able to register for in-person visits upon arrival at the jail facility.
 - o We suggest strengthening the bill language by saying that "The data collected by the online system must comply with the latest encryption protocols..."
- Re: Intro 1026
 - o We suggest this bill be strengthened by adding a requirement for DOC to report on average wait times for visits, for each weekly visiting session the department operates, drawn from data collected by their timestamp system.

Intro 152, 625, 1027 specific to TGNCNBI people in custody

- We support these pieces of legislation that aim to improve care for TGNCNBI people in DOC custody.
- Additionally, we support the amendments to Intro 152 recommended by the Legal Aid Society.

Intro 1036 re: mental health evaluations

- We support this legislation. Delays in the 730 process have long been an issue, and having data about the length of time it takes to complete the exam and to discharge the person to an OMH forensic psychiatric center or other facility would be useful information to have for advocacy to improve the process.

Intro 151 re: humanizing language

- We support list legislation that aims to interrupt the dehumanization of incarcerated people through the inclusion of person-first language throughout City documents.

Intro 206A re: provision of opioid antagonists

- We support this legislation to prevent overdoses of people in DOC custody through better provision and utilization of opioid antagonists. The Attorney General's recent report outlining DOC's lack of intervention to when Elijah Muhammad showed signs of overdosing are a sobering reminder of the need for this legislation.

Several of our members and staff delivered testimony in person at the hearing (including Khadira Savage, Joanne Delapaz, Lezandre Khadu, Melissa Vergara, and Ashley Santiago-Conrad). We are also including statements below from other members in support of Intros 412 and 423.

From Cynthia Acevedo, sister of Gregory Acevedo

“My brother Gregory Acevedo died in the custody of DOC. It was a tragedy that never should have happened. Gregory was incarcerated on The Boat, and on Tuesday morning September 20, 2022, he jumped from the recreation yard. He suffered serious injuries when he fell to the water below, and he died about twelve hours later. I was notified by the hospital, after the fact. If it weren't for the diligence and care of a doctor, I would never have known about my brother's condition. If there had been a protocol to notify family members about serious injuries, like Intro 412 requires, perhaps I could have made it to the hospital to see him before he was put on life support. And Intro 423 is also needed – it didn't seem that DOC was ever going to notify me – it only happened because of the doctor. When we finally made it to the hospital, the disregard from DOC continued. My family rushed to the hospital, and we weren't allowed to see my brother until the doctor pushed the issue to DOC to allow us to see him.

In addition to passing these bills, I want to suggest some amendments. When my brother went to jail, I don't know if he listed anyone as his emergency contact or his next of kin. He didn't want us to know. When I hadn't heard from him, I searched on DOC's website and started sending him commissary money. Anyone sending commissary to someone is going to be a family member or someone that cares for them. If DOC or CHS don't have a next of kin or emergency contact person on file, they should be required to contact the people who have sent commissary funds or made visits to the person in custody.

From Tamara Carter, mother of Brandon Rodriguez

"I didn't hear about my son's death from DOC – it was from Facebook. To be notified of his death through Facebook by someone that was not even family was so heartbreaking. I am his next of kin. I am his emergency contact. I should've been notified by them. My son died sometime after midnight, and I was notified around 9pm on Facebook - how is that right?

After my son died, I called to request his belongings within 24 hours of his passing. The lawyer also called for his belongings, which included so many things we could've cherished. DOC told us his belongings had been “destroyed” - discarded like he wasn't even a person. They didn't care.

The dysfunction, unbearable environment, and neglect took my son's life! I question every death on that island. What does the Department of Correction have to hide? No city, state or government agency should have that power! I'm Brandon's next of kin and I say let the world know how they dropped the ball.”

Note: Tamara Carter asked that we share that really wanted to speak in the hearing but this tragedy has affected her health and her doctor advised her against it.

From Benjamin Villaronga, member of Freedom Agenda

I am a member of Freedom Agenda, and I am also a Rikers Island survivor. We believe in human rights and transparency. When the DOC's neglect leads to the serious injury or death of someone that was entrusted to their care, transparency about the circumstances of those failures is the bare minimum - for their loved ones, and for the public.

I sustained a concussion stemming from an attack on me when I was on Rikers. After the attack happened, I woke up in a few mins and I was between the A and B gate waiting for a long period of time. Eventually, the officers took me to the infirmary. The situation was so odd because after they made some notes, they dismissed the whole situation. I tried to go see the nurse a few days later, but that was impossible. I didn't see a doc or a nurse until 2 weeks later. It seemed as if I could have died, and no one cared less. DOC is wrong for trying to avoid transparency when it comes to cases like mine.

There are currently no laws requiring notification to emergency contacts or attorneys when a person in DOC custody is seriously injured, hospitalized, or attempts suicide. Typically, family members hear about their loved one's injuries from another person in custody, or days later, when their loved one has returned from the hospital.

When I was injured, no one contacted my family about it. DOC certainly didn't care to, and the medical staff had never asked for an emergency contact. I easily could have been unconscious for days, and my family would have no information about where I was. This legislation will address gaps in current laws by requiring that when a person is seriously injured, hospitalized, or attempt suicide in DOC custody, their emergency contact and defense attorney can be notified if the person in custody has given their approval. I want to thank the City Council for holding this hearing and urge you to pass Intro 412 and Intro 423 immediately and CLOSE RIKERS.

Thank you for your consideration. We urge the Council to move swiftly to make the recommended amendments and pass these pieces of legislation.

Sincerely,

Sarita Daftary
Co-Director, Freedom Agenda
sdaftary@urbanjustice.org

Hearing on Intros. 423 and 412

Written Testimony of Sebastian Solomon
Associate Director for Policy, Greater Justice New York
Vera Institute of Justice

September 27, 2024

My name is Sebastian Solomon, and I am the associate director for policy of the Vera Institute of Justice's Greater Justice New York Program, which works to build a leaner, fairer justice system in which public safety in New York is synonymous with equity and community health, and incarceration is a last resort. Thank you for the opportunity to submit written testimony. I am writing today in support of Intros. 423 and 412, which are basic policies to follow best practices and establish a long-overdue level of compassion and transparency in our jail system.

According to the U.S. Department of Justice, "When an individual dies in custody their family members or emergency contacts deserve to be notified in a timely and compassionate manner."¹ New York City's Department of Correction (DOC) should adhere to this same standard, yet municipal law does not yet require it. In fact, the opposite trend is taking place: in 2023, DOC stopped publicly reporting in-custody deaths, and the agency even withheld such information from the federal monitor.²

Put simply, these bills are the right thing to do. Families deserve to be notified if their incarcerated loved ones are injured, hospitalized, or deceased. Intros. 423 and 412 are commonsense bills that will improve transparency in the wake of in-custody injury, hospitalization, attempted suicide, or death. The bills will provide families with vital, timely information, as well as disclose to the public critical updates about ongoing investigations.

Beyond the obvious moral reasons, such transparency is an essential prerequisite for holding DOC accountable for these frequently preventable harms. At least 33 people have died in DOC custody since Mayor Adams took office.³ The real number may be significantly higher; a report from 2023 found that DOC has only publicly reported 57 percent of the 120 known deaths that have occurred on its watch since 2014.⁴ For our part, Vera tracks deaths on Rikers to share the names and stories of people who lost their lives under DOC's watch.⁵ It has become increasingly challenging to document these tragedies because of the department's tactics to evade transparency and accountability.

Intro. 423 will require DOC to notify emergency contacts of in-custody deaths within 24 hours, including information about the officers involved. It will also instruct the Board of Correction (BOC) to release timely preliminary and final reports. As such, the bill will provide crucial transparency to these devastating situations. Jails in major cities across the country, including Cook County (Chicago) and Los Angeles, are already required to provide notification upon someone's death in custody. Intro. 423 will hold DOC to this basic standard.⁶

In tandem, Intro. 412 will end the practice of keeping an incarcerated person's support network uninformed when they are hurt, hospitalized, or attempt suicide. Currently, New York City does not

require DOC to notify anyone when these situations occur. Intro. 412 will require that DOC collect emergency contact information for every incarcerated person and inform those emergency contacts when someone in custody is injured, hospitalized, or attempts suicide.

On their own, of course, neither of these bills will address the root causes of in-custody injury, hospitalization, attempted suicide, or death. They will, however, stop DOC from hiding these tragedies and evading accountability for the well-being of the people in their custody. The city council must pass these important bills and then follow up by using this newfound transparency to hold DOC accountable for the dysfunction, mismanagement, and abysmal conditions that contribute to the harm of incarcerated people every day.⁷

Thank you again for the opportunity to submit testimony. Please do not hesitate to contact me at ssolomon@vera.org if the Vera Institute of Justice may provide further support to you all.

¹ U.S. Department of Justice (DOJ), *Department of Justice Guidance for Federal, State, Tribal, Local, and Territorial Law Enforcement Agencies on Best Practices for Providing Official Notification of Deaths in Custody* (Washington, DC: DOJ, 2023), <https://www.justice.gov/d9/2023-05/Sec%2011%28d%29%20-%20DOJ%20Guidance%20on%20Best%20Practices%20for%20Providing%20Official%20Notification%20of%20Deaths%20in%20Cu.pdf>.

² Reuven Blau, “City Jails No Longer Announcing Deaths Behind Bars, Angering Watchdogs,” *The City*, May 31, 2023, <https://www.thecity.nyc/2023/05/31/correction-jails-not-announcing-deaths-rikers>.

³ Sam McCann and Erica Bryant, “Fifth Confirmed Jail Death in 2024 Brings New York City’s Total to 33 Under Mayor Adams,” Vera Institute of Justice, August 21, 2024, <https://www.vera.org/news/nyc-jail-deaths>.

⁴ Kelly Grace Price, “More People Have Died in New York City Jails Than Previously Known,” *City & State New York*, July 24, 2023, <https://www.cityandstateny.com/policy/2023/07/more-people-have-died-new-york-city-jails-previously-known/388751>.

⁵ McCann and Bryant, “Fifth Confirmed Jail Death,” 2024.

⁶ Illinois Criminal Justice Information Authority, “Illinois Death in Custody Reporting,” <https://icjia.illinois.gov/about/dicra>; and Los Angeles County Sheriff’s Department, “4-10/050.00 Inmate Death – Reporting and Review Process,” <https://pars.lasd.org/Viewer/Manuals/14249/Content/19111>.

⁷ Erica Bryant, *It’s a Torture Chamber* (New York: Vera, 2022), <https://www.vera.org/its-a-torture-chamber>.

Testimony to the City Council Committee on Criminal Justice

Submitted by Ashley Santiago-Conrad

September 27, 2024

Good afternoon, Council Members,

Thank you for holding this hearing and allowing me to express my support for Intros 420, 1023 and Intro 1026. My name is Ashley Santiago, and I am testifying on behalf of Freedom Agenda as a Community Organizer, a member of the Campaign to Close Rikers, and a Native New Yorker who has made many painful visits to Rikers.

My nephew, who has been diagnosed with developmental disabilities, autism and Disruptive Mood Dysregulation Disorder (DMDD), sat on Rikers Island for 2.5 years in dire need of mental health care and healing. During that time, my family and I made it as much a priority to dedicate large chunks of our day to head over that horror bridge to bring some joy into his day and some into ours, as long periods without getting to see him bothered our souls.

A Saturday visitation process consisted of arriving by 7 am and waiting under that hell of a bus shelter to take us over the bridge. The day starts with loads of rules, waiting outdoors while papers are being thrown at you to fill out while you're also trying to take off your shoes and prep for going through medical detectors, having your fingerprints scanned and traced for drugs. Let me not forget that visitation protocol was always on the visitors to look up on their own. Traveling to Rikers with my sister and very two young nieces always made me the most frustrated, watching guards yelling at my 3-year-old niece to hurry up, to NOT TOUCH THE DOGS!! "WHAT DID I SAY?". Stand still! Face the wall! I said, FACE THE WALL, and even forcing my 3-year-old niece to shake out her diaper. Finally getting to the jail where my nephew was didn't mean we went straight into the visit. Sometimes we'd be sitting in NIC or GRVC for anywhere from 3-5 hours in a cramped airless waiting room just to see him. I've watched my diabetic sister hold out as long as she could in hopes to see my nephew without her insulin or pump, and mothers with their newborn babies, who would have to leave before getting their visit because their child needed to eat every couple of hours and no formula nor baby food is allowed. No one's time is taken seriously until that one-hour visitation is over, and you hear the yell of guards "THATS IT! VISTATION IS OVER" "HURRY UP IF YOU

WANT TO CATCH THE BUS, THE NEXT ONE won't BE BACK FROM ANOTHER 30 MIN"
That's right - another bus to escort you literally across the street.

On some days, we'd go through this ordeal without seeing my nephew at all. Many times, DOC would tell us my nephew "didn't want to come down," even when he knew we were coming and was waiting for our visit. We'd leave crushed, and he would call us later upset that he waited and DOC never came to get him. And many days we'd travel all the way to the island to just be told at the entrance "if anyone is here for OBCC (for example) please turn back around, the building is on lockdown and they won't be getting any visitation"...information that would have been helpful to have before making the long trip there.

Although there is no replacement for seeing your loved one in person, you might think that televisits could help family members stay connected when they just don't have the time or energy to deal with the ordeal of visiting Rikers in person. But no. Setting up televisits involved making multiple requests and then waiting for confirmation, confirmation that could be denied or approved down to the very minute of the scheduled time. Even then, confirmation didn't hold any value. We still had to wait for guards to bring my nephew down, which often ate up a huge chunk of our 1-hour visit slot or never brought him down all together as we stared at a computer screen of a waiting room, never notified on why or what went wrong.

For the hundreds of families trekking to Rikers every week, a visit that should've brought joy, leaves you feeling defeated and like you wish there was a way to bring your loved one back with you. It's almost like the entire process is designed to deter you from coming. DOC's disrespect will never stop me and the multiple loved ones I used to see coming and going from Rikers. If we truly cared about dignity and human rights for incarcerated people and their loved ones, Rikers wouldn't exist. While we work to close it, Intros 420, 1023 and 1026 will be a small start to improve the process.

[REDACTED]
New York, NY 10032

bbdieng@live.com / [REDACTED]

Dated: September 4, 2024

Testimony of Babacar Dieng Before the New York City Council on Criminal Justice

Introduction: Good morning, distinguished members of the New York City Council. My name is Babacar Dieng, and I have been a resident of New York City for 23 years. I come before you today to share my experience as a U.S. citizen who has been under continuous surveillance by the NYPD for the past 23 years. My case is one of systemic targeting and persistent monitoring without just cause, leading to significant violations of my civil rights and personal liberties. My story involves two lawsuits currently pending against the NYPD, one filed in the Supreme Court of New York under Index No. 152184/2024 and the other in the Federal Southern District of New York under Case No. 24Cv-01834.

Background: I arrived in the United States from West Africa a year after the tragic events of 9/11, seeking the American dream and bringing with me a Master's and a Bachelor's degree in Computer Science. Over the years, I furthered my education, graduating Magna Cum Laude with a BTech in Telecommunication Engineering from CUNY-City Tech. I have proudly served my community through various roles, including my professional work in the Incentives Unit managing energy consumption rebate programs and my participation in academic and environmental research projects. Despite these positive contributions, my life in New York City has been marred by unwarranted surveillance that has infringed upon my freedom and dignity.

Surveillance and Harassment: For over two decades, the NYPD has conducted an extensive surveillance operation against me, beginning shortly after my arrival in the city. This surveillance has been both overt and covert, including the deployment of police patrol

officers to monitor my residence at the corner of West 162nd Street, as well as the installation of temporary pole cameras while permanent surveillance equipment was being finalized at the intersection of Broadway and West 162nd Street. The NYPD continues to track my movements, particularly along Broadway and within the neighborhood, targeting locations where I frequently shop and conduct daily activities.

Despite my repeated inquiries, the NYPD has failed to provide any proof or justification for this surveillance. I am left to believe that this monitoring is not based on any criminal activity or reasonable suspicion but rather stems from a discriminatory mindset. This has created an atmosphere of intimidation and fear, impacting my ability to live freely in the city I call home.

Pending Lawsuits: In response to these persistent violations of my rights, I have taken legal action. I currently have two pending lawsuits against the NYPD:

1. **Supreme Court of New York (Index No. 152184/2024):** This lawsuit challenges the legality of the NYPD's surveillance practices and their impact on my privacy and civil liberties.
2. **Federal Southern District of New York (Case No. 24Cv-01834):** This case focuses on the constitutional violations stemming from the NYPD's actions, including breaches of my Fourth Amendment rights against unreasonable searches and seizures.

Both lawsuits seek to hold the NYPD accountable for their actions and to prevent similar violations of civil liberties for other New York City residents in the future.

Impact on My Life:

The impact of this long-standing surveillance on my life has been profound. The constant presence of law enforcement officers and cameras has created a sense of unease and fear, affecting my ability to move freely in my own neighborhood. It has disrupted my personal

and professional life, straining my relationships with family, friends, and colleagues. The psychological toll has been immense, as I am forced to live under the shadow of suspicion without any clarity as to why I am being targeted.

Moreover, this surveillance has impeded my efforts to pursue justice and seek accountability. The NYPD's refusal to provide transparency regarding their actions has made it difficult for me to address the issue through legal and administrative channels.

Conclusion and Call to Action:

I urge the New York City Council to investigate the NYPD's surveillance practices and hold them accountable for their actions. No citizen should have to endure decades of unwarranted monitoring, especially without being given a clear explanation or justification. I ask this Council to ensure that the NYPD adheres to the principles of transparency, fairness, and respect for civil rights in all their operations.

I am not here today just for myself, but for every New Yorker who values their privacy and freedom. It is imperative that we confront these practices and implement reforms to prevent similar abuses in the future. I trust that the City Council, in its commitment to justice and equality, will take the necessary steps to safeguard the rights of all New Yorkers.

Thank you for your time and consideration.

Babacar Dieng

Resident of New York City

Plaintiff in Supreme Court of New York (Index No. 152184/2024)

Plaintiff in Federal Southern District of New York (Case No. 24Cv-01834)

Testimony to the City Council Committee on Criminal Justice

Submitted by Joanne Delapaz

September 27, 2024

Good morning Council Members,

Thank you for holding this hearing. My name is Joanne Delapaz. I'm a member of Freedom Agenda and I'm here today to ask you to pass Intro 412 as soon as possible to keep family members informed when serious injuries happen in DOC custody.

My son was incarcerated at Rikers Island in 2022 when he was stabbed seven times. They took him to medical, and then put him back in the same house almost right away, and he was stabbed eight more times. The second time, it actually happened while I was on the phone with him. All I heard was chaos in the background. I didn't know what happened until another one of his friends who was inside with him called me and said they took him out of there bleeding, and he couldn't breathe. I was so scared. I rushed over to Rikers Island with my family, and we demanded to know where my son was. The guard I spoke to was so disrespectful. He told us "Whatever happened to him happened," and he said, "If he was dead, you would know." We kept arguing and finally he said we should check at Bellevue.

When we got to Bellevue, DOC still wouldn't let me see my son. I gave his name and his ID number but they said they had him under some other name because they said he was gang affiliated. Later I found out that while I was out there arguing with these officers, my son was inside getting blood taken out of his lungs. His lung was punctured when he got stabbed, and he needed a blood transfusion. I went home that day and still hadn't gotten to see my son.

The next day I called and spoke to someone in charge and finally they told me I could come and see my son. That person actually apologized for how we were treated the day before. When I got there, my son was the only person in the housing area with about 30 guards around him. He was there two days, and they sent him back to Rikers. He spent about six more months at Rikers and he never got evaluated, never got a follow up appointment. My son got home a couple weeks ago, and this week was the first time he got evaluated after that surgery. Aside from the physical trauma, he came home with mental scars and PTSD.

No one should be sent to a place as violent as Rikers, and Rikers need to be shut down. I'm going to keep fighting for that. But there are also smaller changes that this City Council can make right now to make sure that when people are hurt as badly as my son was in jail, family members are at least informed so we can be there for them. Support from families is important when people are incarcerated – DOC shouldn't be allowed to hide the truth from us.

My name is Kennedy Felder and I am reading the following on behalf of a former NYC Department of Corrections officer who served in the Special Considerations Unit (also called the Transgender Housing Unit). This testimony was sent anonymously.

Good [morning/afternoon],

I want to thank the members of City Hall for allowing me the opportunity to speak today on an issue that I believe is of critical importance to the safety, dignity, and human rights of incarcerated individuals within the New York City Department of Corrections. As a former NYC Corrections Officer, I had the privilege and responsibility of overseeing the establishment and supervision of the country's first transgender housing unit within a detention facility. From that experience, I have witnessed firsthand why it is imperative for this type of housing to exist within our system.

When we talk about the purpose of incarceration, we often emphasize the concepts of justice, rehabilitation, and public safety. But I believe one of the most overlooked aspects of our responsibility is ensuring the humane treatment of every person in custody, regardless of their gender identity. Transgender individuals represent a particularly vulnerable population in any detention facility, often facing extreme levels of violence, harassment, and discrimination simply because of their identity. Without proper housing, transgender inmates are disproportionately at risk for physical and emotional abuse, and in some cases, their lives are put in danger.

In my role as a Correction Officer, I saw the urgent need for a safe and supportive environment for transgender individuals. A transgender housing unit was established specifically to address this need. The goal was simple: to create a space where transgender inmates could live without fear of assault or mistreatment while still adhering to the security and operational requirements of the correctional facility. This unit was not about giving special treatment—it was about ensuring the safety and dignity of individuals who, without such protections, would be at significant risk.

In working with political and uniformed officials to establish operational protocols, it became clear that this type of housing wasn't just a moral or ethical necessity—it was also practical. From an operational standpoint, separating transgender individuals into a dedicated housing unit allowed for better management of the population and reduced the need for constant intervention in response to incidents of violence or harassment.

The positive impact of the transgender housing unit went beyond safety. It contributed to the mental and emotional well-being of the residents. When individuals are placed in an environment where they feel respected and valued, their chances of rehabilitation and positive behavior increase significantly. We saw fewer incidents of self-harm and greater

cooperation with facility staff. This led to an overall reduction in tension within the facility, benefiting both inmates and staff alike.

The success of this unit speaks to the broader need for transgender housing across our corrections system. By segregating vulnerable populations in ways that address their specific needs, we aren't just reducing risk—we are fulfilling our duty to treat all incarcerated individuals with humanity and respect.

I urge City Hall and the Department of Corrections to not only continue supporting the transgender housing initiative but to expand it, ensuring that every transgender individual in custody has access to safe and supportive housing. These units are not simply a matter of policy—they are a matter of survival for some of the most marginalized people in our city.

As someone who has worked on the front lines, I can assure you that the presence of transgender housing benefits everyone within the system. It reduces violence, fosters a more humane environment, and contributes to the long-term success of our correctional system. We must continue to move forward with policies that prioritize safety, dignity, and equality for all incarcerated individuals.

Thank you for your time, and I hope you will continue to support this essential initiative.

Testimony to the City Council Committee on Criminal Justice
Submitted by Khadira Savage
September 27, 2024

Good morning Council Members,

Thank you for holding this hearing and allowing me to express my support for Intro 412 and Intro 423. My name is Khadira Savage. I'm a member of Freedom Agenda, and the sister of Roy Savage.

As I stood in the lobby of Bellevue Hospital earlier this year, I was in total disbelief of what was being said to me on the other end of the phone. "The Sergeant wants to know why you are still trying to get upstairs if the body is already on the way to the morgue?"

That was how I was notified of my brother's death after being held in the lobby for over an hour and told that I would not be let upstairs because based on their system it showed that my brother already had his two visits for the day. I explained to the receptionist over and over that my brother was dying and we were asked by the medical staff to "Come now." After that, I recall getting the urgent message from my brother's longtime friend and companion, who explained that his condition had worsened overnight.

On March 22, 2024 my oldest brother Roy Savage was the 31st person of 33 individuals that died while in DOC's custody since Eric Adams took office! Anthony Jordan was the most recent death, after he was denied the proper medical care despite his verbal request for help on August 20, 2024.

As next of kin to my brother I never received a call from DOC or Bellevue to notify me that my brother was in his last days. Just 3 months prior I sat with my brother in Upstate Medical Hospital and planned his return home to New York City. My brother had been acquitted of his charges and was told by his legal counsel that he would be granted the right to die peacefully and with family or in hospice care...he would just have to make the transfer. I often question whether Roy would still be alive had he stayed upstate. None of us could have been prepared for what happened next.

The next months following my brother's transfer my family was constantly turned away from visits. My sister was told verbally by officers at Bellevue Hospital on two separate occasions that my brother had contracted COVID and needed to be quarantined. We later discovered that he never had COVID and to this day our family has not been notified as to why we were denied visitations between January and March of 2024.

March 21, 2024 was the last time I saw my brother alive, he appeared to be less than 100lbs and like he had not been bathed or cleaned in weeks. Unable to eat solid foods I observed a food tray on his table with a full dinner plate with meat, rice and vegetables. This made me wonder, if they are bringing him a tray of food... when was the last time he was fed an Ensure and why he wasn't on feeding tubes if he was no longer able to eat? I requested an Ensure from a nurse

who took over an hour to return, only to have to wait another 45 mins for a nurse to find a straw.

How had he been eating or drinking if they do not even have a straw on hand? I fed my brother that Ensure drink and watched as he struggled to drink out of the straw; he was too weak. As I coached him to drink my brother finished off his Ensure drink and I prayed over him. He couldn't tell me, but I knew that my brother had experienced something that was worse than what I would want to imagine. There was no doctor to consult with and I was confused as to why there was no communication about my brother's health declining so rapidly.

The least they could have done was contact me to notify me that my brother's condition had worsened. It was like once he was placed into DOC custody all communication was cut and by the time anyone saw my brother again, he was unable to speak, eat or move to explain what had happened.

In honor of the type of man my brother was, he would make the best of the worst situations and never gave up his faith no matter how bad it got! Roy Savage was that man until the day he died.

City Council Passing Intro 423 and 412 is how we transmute very ugly situations into something honorable; every man deserves that right. These bills can be the beginning of reminding DOC and CHS that people in jail are human beings, with people who love them. Demanding Transparency is how you create solid solutions and hold people accountable, shining a light to what changes need to occur. Let's grant families the right to make decisions and be present for their loved ones. Communicate so that there is an awareness of our family's wellbeing, that is not too much to ask for. It's actually inhumane to have it any other way!

The Close Rikers Movement is just the beginning of the work that will need to be put back into our communities as we are forced to deal with these situations and just carry on with life. The domino effect has impacted millions of NYC residents and it's time to speak up. Not just for my brother but for all the people who did not deserve to die in such horrible conditions.

Testimony to the City Council Committee on Criminal Justice
September 27, 2024
By Lezandre Khadu

Good morning, Council Members,

Thank you for holding this hearing and allowing me to express my support for Intro 412 and Intro 423. My name is Lezandre Khadu. I'm a member of Freedom Agenda, and the mother of Stephan Armani Khadu. My Son was 22 years old when he entered the doors of hell aka Rikers Island and the care of Department of Correction. On December 19, 2019 was the first time I ever went to visit my son and saw first hand the horrors that were occurring there. I was so surprised that a place like this could function in our city. I remember how filthy the space was and how horrible it smelled. It broke my heart to know that my one and only son was living here. I was still excited to see my sonshine though, so I held my head high and focused on my time with him.

Having a child on Rikers Island or in the care of DOC is the most distressing feeling ever. Not being able to help your child or do anything while they are suffering is the worst feeling, I always felt so helpless when it came to advocating for him. The Covid came into the world and turned the Rikers Island Jails upside down. No human contact from family and loved ones. When Stephan was moved to the boat I never got to see him in person, only televisit, but I was okay with that as long as I got to continue to see and hear my son.

A couple days had gone by and I hadn't heard from Stephan until I received a call from my daughter one afternoon. She was crying and yelling "mama, mama, pop had 5 seizures and they took him to the hospital." I was on the verge of passing out! Why had no one called me? How do I rush to the hospital and bargain with DOC to let me see him? We rushed to Lincoln Medical Center, on our way there I had asked my daughter if she was able to get a name from the officer who called to let her know about her brother. She said, "an officer didn't call me, ma, it was one of his friends to call to let me know." I was in shock.

Being at the hospital was not easy either, no one gave us any answers. Not from staff or security of the hospital and definitely not DOC. When I finally approached an officer, I said "My name is Lezandre Khadu and I'm the mother of Stephan Khadu, I just would like to see and know that my son is okay. The officer said "She cannot be here, get her out of here." I pleaded and pleaded with them. Please just let me know that he's okay. They escorted me out of the back of the hospital and as the officer left, she said "We don't have to tell you anything, he's 22 years old and he is the property of DOC." I lost it! I took off my mask and said "How could you? You are a human and you are a woman, how could you look me in the face and tell me that." She replied with "I will tell you he's not dead". I cried all night.

The next day my phone rings, NOT DOC, it was a man named Dr. Wolf who let me know he was my son's doctor. I told him I wanted to know everything as DOC has been keeping me out of the loop. He said "your son was brought here from the facility where officers said he had 2 seizures in the facility and one in the ambulance ride over." He told me my son's bones were stiff for so long because of the back to back seizing, they had become brittle and started to leak toxins into his bloodstream, they'd be keeping him there because they were worried about his kidneys failing. I never thought my son, healthy son, would need emergency dialysis at 23 years old. I WAS HEARTBROKEN. I started to scream and yell. I wanted to see, hold and nurture my son and I couldn't. I was hoping even the hospital would see the urgency and give me a pass but it's like they couldn't go over DOC. When I finally got a quick phone call from Stephan he sounded different and he let me know where he was. I told him I knew and that I had been trying to see him. He was talking funny, he said it was because of how he bit his tongue during the seizures. While

we were on the phone I kept hearing him tell the person near him "It's just my mom, I just want to tell her I love her and say hi" before we hung up I yelled "I love you," and "please don't hurt my son." I cried all night hoping to hear from Stephan, I called the hospital in the morning to just check and all of a sudden, they told me "We can no longer give out information on that patient, I'm so sorry" and hung up on me.

On July 12th 2021, Stephan was back on the boat and called me. I felt a somewhat sense of relief as I prayed with him on the phone. When we got off I requested multiple televisits and every single one got denied. I was confused but focused on the positive of still getting his phone calls and I know others were getting to see him on televisit. On September 11th 2021 my son turned 24. Spending two birthdays fighting his case from hell. Finally they had approved a visit for me on 9/18. I was so excited to see my son, especially since I know he had been down from talking to him, in a way I had never seen before. I knew this would be good for both of our spirits. One of our last phone calls, Stephan said to me "Ma, I'm tired of being here. I didnt do anything" and I said "I know, son. You will get through this. God got you". On September 22, 2021 between 10-11 am I heard my daughter screaming and yelling "NO NO NO NO, MA MA MA MA MA" I jumped up from and opened my room door. She looked at me and said "Ma, your son is dead." I passed out. I awoke to everyone screaming and crying. I couldn't breathe because no one told me anything - his mother, the person who made him. I need my people in office to do what's right and pass these bills and close Torture Island down. Decarcerate and put that money back in my community. Thank you.

Good afternoon and thank you Committee Members for permitting me to share my testimony.

I am Dr. Marion Phyllis Cunningham, retired and was a public health nurse and a nurse educator for more than 63 years. Those 63 years informed what I am going to say. I am a stickler for documentation and transparency. There can be no transparency without documentation. My main concern is closing Rikers but until that happens, some actions have to be taken and I will address aspects of Intro 412 and Intro 423.

Concerning **Intro 412**, individuals in custody must be offered and need to have the option to select who should be notified, and in what situation should serious injury, illness, hospitalization, attempted suicide, or death occur. Notification should be made in an appropriate amount of time and the person in custody should be informed that notification has been made to the selected person(s) within a reasonable amount of time given the situation. Families must be apprised of any changes in the health status of their loved one who is in custody at Rikers. Every step of the process should be well documented.

Concerning **Intro 423**, the Department of Corrections, Correctional Health Services, and Board of Corrections would be required to investigate every death. This entails specific documentation that must be available concerning the barriers to medical care that was a factor in the death of an individual...for instance, the lack of facilitating medical appointments, correction officers or staff responding inappropriately to complaints or requests for help as in the case of the death of a man who choked while eating an orange, correction officers preventing health care workers from checking on the young woman who recently died, the lack of required rounds being made to monitor those in custody especially if mental health is a concern...as in the case of a number of deaths by suicide, lack of medical care resulting in death of a woman due to complications of diabetes... These are some examples of situations where death has occurred and documentation is necessary.

Documentation identifies factors contributing to changes in health status including, serious injuries, hospitalizations, attempted suicides, and deaths and should be used in correcting situations to prevent future occurrences.

I want to thank the Committee on Criminal Justice for holding this hearing and urge the City Council to pass Intro 412 and Intro 423 immediately!

Testimony to the City Council Committee on Criminal Justice
Submitted by Melissa Vergara
September 27, 2024

Good afternoon Council members,

Thank you for holding this hearing.

My name is Melissa Vergara, and my son was incarcerated at Rikers Island for two and a half years. During that time, he suffered multiple severe injuries, including one incident where he lost part of his finger due to a faulty door at the facility. Having a loved one in the custody of the Department of Corrections is a terrifying ordeal for families. Not only are they sent to an isolated penal colony and mistreated, but we also struggle to get accurate information about their well-being.

Throughout those more than two hellish years on Rikers, my son sustained serious injuries, and I was never informed. There were many days when I didn't hear from him at all, and I feared the worst. This bill is a crucial step towards creating the transparency that Mayor Adams seems determined to eliminate. We know that transparency and accountability are not priorities for this administration.

It is also imperative that we not be distracted or allow the unlawful Mayor to delay the closing of Rikers Island. With family members being notified and kept informed, we can advocate for timely and appropriate care for our loved ones, especially given the lack of oversight at Rikers, which has already led to over 30 preventable deaths since Mayor Adams took office. I thank Council Member Restler for introducing this bill and strongly urge the Council to pass it without delay.

Good morning, Chair Nurse and other committee members. I am so grateful to be able to speak with you all today. My name is Dr. Rachel Lynn Golden, my pronouns are they.them, I am a psychologist with a decade of training and experience in gender-affirming care and am the founder and director of Golden Psychology, a gender-affirming therapy practice, and research consultancy based in New York City. Across my career, I have provided support for hundreds of gender-expansive individuals and their families. I also developed the New York State Transgender Identity Program, which provided gender-affirming therapeutic care to people held within 29 of the New York State prisons. I also consult on legal cases related to gender care and affirmation for people held in jails, federal detention centers and state prisons nationwide. I volunteered to be on the Task Force.

I will speak about three important steps towards supporting TGNCNBI people within the correctional system:

- 1) quickly and efficiently housing individuals in facilities that align with their gender
- 2) ensuring that CHS and the DOC provide prompt access to the gender-affirming medical devices that TGNCNBI people within the correctional system deserve and
- 3) Extending the work of the Task Force and amending the breadth and ability of the Task Force to effect life-saving change for TGNCNBI individuals who are incarcerated.

First, why is efficient access to gender-affirming housing so important? TGNCNBI individuals face disproportionate rates of incarceration¹ and violence and victimization while incarcerated.² In published research 78% of transgender individuals reported emotional pain from hiding their gender identity during incarceration. 47% of Transgender women who had been incarcerated reported being victimized while incarcerated.³ 40% of Transgender people and 59% of Transgender Women reported being sexually assaulted while incarcerated- this is compared to 4% of cisgender men held in male facilities.^{4,5} The burden of victimization is disproportionately carried by Transgender Women of Color. The result of these experiences is trauma, PTSD, depression, anxiety, and suicide attempt and completion.^{7,8} These are well-documented **facts**

¹ Grant JM, Mottet LA, Tanis J, et al. (2011) Injustice at every turn: A report of the national transgender discrimination survey. *Report, National Center for Transgender Equality and National Gay and Lesbian Task Force*, Washington, DC.

² National Center for Transgender Equality. (2018). LGBTQ People Behind Bars: A Guide to Understanding the Issues Facing Transgender Prisoners and Their Legal Rights. Available at: <https://transequality.org/transpeoplebehindbars>.

³ Lydon J, Carrington K, Low H, Miller R and Yazdy M (2015), "Coming out of concrete closets a report on black and pink's national LGBTQ prisoner survey", *Black & Pink*, available at: www.blackandpink.org (accessed December 12, 2016).

⁴ Jenness V, Maxson CL, Matsuda KN, Sumner JM. *Violence in California correctional facilities: An empirical examination of sexual assault*. Irvine, CA: University of California, Irvine; 2007. Report submitted to the California Department of Corrections and Rehabilitation.

⁵ Sexton L, Jenness V and Sumner J (2010), "Where the margins meet: a demographic assessment of transgender inmates in men's prisons", *Justice Quarterly*, Vol. 27 No. 6, pp. 835–66.

⁶ Bureau of Justice Statistics (2007, 2008–2009, 2011–2012), "*National Inmate Survey*".

⁷ Brown G (2014), "Qualitative analysis of transgender inmates' correspondence: implications for departments of correction", *Journal of Correctional Health Care*, Vol. 20 No. 4, pp. 334–42, doi: 10.1177/1078345814541533.

⁸ Brown G and Jones K (2015), "Health correlates of criminal justice involvement in 4,793 transgender veterans", *LGBT Health*, Vol. 2 No. 4, pp. 297–305, doi: 10.1089/lgbt.2015.0052.

about the experiences of TGNCNBI individuals in carceral settings, and are the experiences of Transgender and Nonbinary people in our own city jails.

TGNCNBI individuals in custody deserve to be quickly placed in housing that aligns with their gender identity. I can share from the experiences of the people I work with, affirming housing allows them a safer place from which to embody their identity, reduces risk of assault and immediately has a positive impact on their mental health. Delays in placement and associated fearmongering related to placing Trans women in gender-aligned housing is nothing short of Transphobic, and results in the continued disproportionate targeting of TGNCNBI individuals for harassment and violence. This targeting is especially dangerous for those who are multiply marginalized, especially those early in their gender exploration and transition.

Failing to quickly place individuals in gender-affirming housing increases the risks and instances of sexual violence, mental health decompensation, and places an added burden on the jail system to manage complaints and treat medical and mental health issues that result from individuals being housed in a non-affirming setting. It is in the best interest of **Transgender people and DOC** to speedily place individuals in housing that aligns with their gender and safety needs. TGNCNBI individuals who do not wish to medically affirm their transition or who are early in their transition may not fit a binary notion of what “being Trans” looks or sounds like. However, this is not proof of present danger to others, deceit, or potential to cause harm, in fact, lack of access to safe housing and items to affirm transition can place people at greater risk of harassment and abuse.

To continue, the wrongful idea that there is sole incentive to pretend to be Trans, in order to gain access to transgender housing units and services, or for other antisocial gain **is a fallacy not borne out by the evidence**. Given the well-documented reality of harassment, trauma and abuse due to identifying as Transgender, there is little to no incentive to pretend to be Transgender. In addition, there is **absolutely no evidence** that people pretending to be Transgender is a common occurrence, whereas **there is ample evidence** of the risk of violence and assault to Transgender people in custody and to Transgender Women being housed in a “male” facility.

Next, I will speak about the importance of access to gender-affirming devices, meaning: wigs, hair extensions, chest binders, tucking undergarments or gaffs, prosthetics, or other similar items or medical devices that are used by individuals to affirm their gender identity. The use of gender-affirming items and medical devices to affirm gender identity is a well-documented, effective treatment for gender dysphoria.⁹¹⁰¹¹ It is endorsed by the World Health Organization¹² among

⁹ Sevelius J, Jenness V. Challenges and opportunities for gender-affirming healthcare for transgender women in prison. *Int J Prison Health*. 2017 Mar 13;13(1):32-40. doi: 10.1108/IJPH-08-2016-0046.

¹⁰ Pehlivanidis, S., & Anderson, J. R. (2024). A scoping review of the literature exploring experiences in the Trans and gender diverse community with chest binding practices. *International Journal of Transgender Health*, 1–27. <https://doi.org/10.1080/26895269.2024.2316691>

¹¹ Jarrett, B. A., Peitzmeier, S. M., Restar, A., Adamson, T., Howell, S., Baral, S., & Beckham, S. W. (2020). Gender-affirming care, mental health, and economic stability in the time of COVID-19: a global cross-sectional study of transgender and non-binary people. *medRxiv : the preprint server for health sciences*, 2020.11.02.20224709.

¹² *Gender incongruence and transgender health in the ICD*. (n.d.).

<https://www.who.int/standards/classifications/frequently-asked-questions/gender-incongruence-and-transgender-health-in-the-icd>

countless other medical and mental health organizations such as the American Medical Association which states that “Gender affirming care is medically-necessary, evidence-based care that improves the physical and mental health of transgender and gender-diverse people.”¹³

Transition itself is an individually determined path. For those who wish to affirm their transition while in custody, access to gender affirming items or medical devices used to affirm gender can dramatically improve wellbeing, provide self-confidence, and ameliorate mental health symptoms. Given existing restrictions in what can be accessed to affirm gender in the jails people are not able to engage these integral supports. In addition, the process of transition varies across individuals, and some may not choose to use these devices as they may not affirm their experience of their gender identity.

TGNCNBI individuals held in custody should be given access to gender-affirming items and medical devices as suits their individual transition needs. They deserve to be afforded gender-affirming housing that provides greater safety while they are held in custody. Both are life-saving solutions that have the potential for a tremendous impact on wellbeing and safety, and reduction of violence and trauma.

Finally, I wish to speak on the Task Force. I have been a member of the Task Force since 2022. I volunteered for the Task Force amidst great hope and encouragement about being a part of positive change that could happen in the City of New York for Trans and nonbinary people who are incarcerated here. The reality of the Task Force is starkly different. I have watched as a passionate group of advocates who uplift the needs of Trans and nonbinary people living in the city’s jails have met with opposition from DOC at almost every turn. We have been stalled and shut out from receiving answers about the care and wellbeing of some of our most vulnerable New Yorkers. We have been rebuffed when we are making simple, required reporting requests of DOC and BOC. The Task Force has successfully been stalled and the wellbeing and mental and physical safety of Trans and Nonbinary detainees is deteriorated. It seems DOC is doing their best to render the Task Force powerless, a Task Force that they are committed to collaboratively participate in. I strongly urge City Council to empower the Task Force to become an effective place of growth and positive change for the lives of detained Trans and Nonbinary New Yorkers and for the city’s jails as a whole.

We have a duty to believe people when they tell us they are Trans; it takes great courage for people to self-advocate in this setting to receive gender affirming devices or ask to be moved into affirming housing units so they can more safely transition, find community and be themselves. When legislation and correctional environments prevent this, undue harm is unequivocally the result.

¹³ American Medical Association. (n.d.). *AMA reinforces opposition to restrictions on transgender medical care*. <https://www.ama-assn.org/press-center/press-releases/ama-reinforces-opposition-restrictions-transgender-medical-care#:~:text=%E2%80%9CGender%2Daffirming%20care%20is%20medically,supportive%20care%20of%20a%20physician>

We have a responsibility to TGNCNBI people held within DOC. I call on City Council to do the work of affirmation and protection when DOC will not. I also call on them to empower the Task Force to be effective. Amending the Task force, allowing TGNCNBI individuals held in custody to be housed in gender-aligned facilities, and providing access to life-saving devices are three simple steps this Council can take to ensure the wellbeing of our most vulnerable Trans and Nonbinary New Yorkers.

September 27th, 2024

The New York City Council: Committee on Criminal Justice

Introduction

My name is Rajesh Kamal Mehra, pronouns he/him/his. My testimony reflects my personal views and experiences and does not represent any official stance of organizations, agencies, or unions with which I may be affiliated.

I hold a master's degree in Creative Arts Therapy, am licensed in New York, and am nationally Board Certified. However, my real qualification to speak to the issues within this committee's agenda comes from my work serving some of the most marginalized individuals incarcerated at Rikers Island for over a decade. I consistently and persistently advocate both for the people I serve and for the dedicated public servants who work alongside me, whether they are healthcare professionals, correctional officers, or other staff. These voices—especially of those directly impacted by the carceral system—are often underrepresented in critical discussions like this, even though they have firsthand insights that can lead to meaningful change.

Int 0423-2024: Procedures following the death of an individual in custody of the department of correction and a report on compassionate release.

After the death of an incarcerated individual, transparency and accountability are essential. This was powerfully reinforced by the moving testimonies during this session from family members who have lost loved ones in custody. With this in consideration, however, I would like to echo and expand on concerns raised by Dr. Subedi, regarding the inclusion of clinicians' names in death reports.

There is a real risk that healthcare staff could be misattributed with liability in these reports, leading to unintended consequences. The correctional health environment is already plagued by high burnout, compassion fatigue, vicarious traumatization, and threats to one's own physical and mental well-being. Many of my skilled healthcare colleagues have left their positions over the years because of these challenges. Fear of losing one's professional license and reputation due to misattributed responsibility could exacerbate staff turnover. Experienced healthcare professionals are critical to providing the quality care that incarcerated individuals deserve, and policies should reflect the need to balance protections for these professionals while also ensuring well-deserved accountability and transparency.

Int 1036-2024: Requiring the DOC to provide reports regarding people in custody who have been ordered to undergo a mental health examination.

In discussing the reporting requirements for individuals ordered to undergo Section 730 mental health evaluations, Int 1036-2024 provides essential information but seems to fall short on a crucial next step: tracking and reporting on individuals who have undergone capacity restoration at an appropriate institution and have since returned to DOC custody. Once these individuals return to incarceration, post-hospitalization at an appropriate institution, the environment itself poses a serious risk of decompensation due to the inherent stressors of jail life. Without proper monitoring and support, these individuals can relapse and be forced to undergo the lengthy restoration process once again.

A critical aspect missing from Int 1036 is tracking the amount of time these individuals spend confined in their cells if housed in a designated mental health cell housing unit. Let's consider the three groups of individuals in custody (two already identified in Int 1036 and the third I propose for inclusion) and why including such tracking in Int 1036 is essential.

1) Those people in custody with a pending mental health examination:

Extended cell confinement increases the risk of psychological regression, making it more likely they will fail the Section 730 evaluation and require lengthy capacity restoration treatment at an appropriate institution.

2) Those people in custody deemed an incapacitated person following a mental health examination:

Prolonged confinement can exacerbate symptoms to increased severity, potentially worsening their mental state to an increasingly acute degree and significantly extending the duration of treatment required during the restoration process at the appropriate institution.

3) Those people in custody who have returned to custody with restored capacity following treatment at an appropriate institution:

If confined for extended periods, the progress made during the capacity restoration process is at risk of being undone, causing them to decompensate before concluding court proceedings and likely require a repeat of the lengthy restoration process.

If cell confinement durations are not tracked and documented, individuals risk being subjected to what some might call "Solitary by Another Name," which could further destabilize them and lead to the outcomes described above.

Int 0735-2024: Requiring the department of correction to report on physical violence against and sexual harassment of correctional staff and ensure that staff have access to mental health treatment resources.

Correctional staff frequently put their physical and mental well-being at risk to fulfill their duties. Many of my colleagues have faced violence, sexual harassment, or other traumatic events, including being taken hostage. I, too, have been physically assaulted while providing therapeutic care, and so I know firsthand that these experiences take a significant toll.

I support Int 0735, which would ensure that correctional staff have access to mental health treatment and wellness resources. I understand the concerns raised about protecting staff identities in these reports, but I am confident that these can be addressed through amendments. Additionally, I believe the legislation could go further by including support for staff exposed to other traumatic incidents, such as being taken hostage, witnessing violence on staff or people in custody, and witnessing severe self-harm or suicide, which may not fall under physical assault or sexual harassment but still require meaningful mental health support.

Correctional Health Services staff would also benefit greatly from these resources as, unlike some Health + Hospitals facilities, CHS has not implemented the "Helping Healers Heal" (H3) program or created a dedicated wellness staffing line, like a Wellness Director or Coordinator. Implementing these support structures would help protect the mental health of healthcare workers who are critical to the well-being of incarcerated individuals.

Int 1027-2024: Requiring that people in the custody and staff of the DOC have access to gender-affirming items and medical devices.

The carceral environment inherently de-identifies and dehumanizes individuals, but the impact is especially severe for those who already struggle with societal affirmation. Transgender and nonbinary individuals, particularly those who are also people of color, face compounded layers of discrimination. This intersectionality must be acknowledged and addressed in our policies and practices.

As a therapist, I strive to create sessions that stand in stark contrast to the rigid, restrictive, and binary nature of the carceral setting by creating spaces where individuals feel seen, valued, and affirmed. This approach, based on an affirmative therapy model, recognizes and celebrates the unique identities of transgender and nonbinary individuals. Our laws must reflect this same commitment to affirmation and respect.

Many TGNCNBI individuals are transferred to the Rose M. Singer Center at Rikers for their own safety. However, despite these measures, they often face fear and misunderstanding from others. Individuals who choose not to, or cannot, undergo hormone therapy or surgeries are especially vulnerable. When they are unable to present in accordance with their gender identity, they are frequently misidentified, stigmatized, and discriminated against. Gender-affirming items and medical devices are critical to protecting their dignity and safety, and I fully support Int 1027 to ensure these individuals receive the respect they deserve. In a post-COVID world, where people in custody are encouraged to wear surgical masks that cover half their face to prevent

the spread of airborne illnesses, it's difficult to argue that items like wigs pose any greater security risk in regards to identity concealment. If someone had nefarious intentions, they could easily improvise with other available items. I have personally witnessed individuals, out of desperation, repurposing mop heads as wigs and hair extensions to affirm their identity. Should we then prohibit cleaning supplies?

My name is Richenda Kramer and I live in Staten Island, District 49. I have been involved with prison issues for twenty years with American Friends Service Committee and with CAIC. I come to support Intro 423, and Intro 412 and to ask that this committee present these to the City Council for a vote as an important step forward in transparency in what is at present a murky situation.

Both of these intros deal with gaps in the present law.

Intro 423 requires DOC to notify BOC, emergency contacts, defence attorneys and the public when a person in custody suffers serious injury, suicide attempts, hospitalisation and provide them with medical information, as well as their grievances and requests for assistance. This is of interest and help to the people with whom it is shared, and, for the families, it is reassuring to them to get this information, allaying the fears they currently have when they do not hear from their loved one. Also either family or a defence lawyer might be able to make sure that the person in custody gets good treatment. But the wishes of either the person in custody and their family should be considered. There may be issues that they do not wish to be made public and there should be an amendment to Intro 423 to address this issue.

Intro 412 requires that DOC notify defence attorneys and families when a person in custody dies, something which is not codified as necessary at present and DOC is very reluctant to provide information. It is important for the grieving families who need as many details as possible. This information is also important for the public, especially those involved in prison issues, the better the public can be aware of issues in Rikers. But, again, the information about the deceased which is publicised should be limited by his or her known wishes, and those of the family.

I hope that you will pass these intros to City Council so that they may become law, and I hope that amendments can be made to protect the privacy of people in custody and their families.

This testimony is from a Legal Aid client known as Ms. X. This testimony was collected with the help of her defense and civil attorneys and with her explicit permission. We have made edits for length and clarity. Ms. X faced many concerns and assaults while there, but for today's purposes we are focusing on one specific story.

I came into custody in March 2022. I asked for women's housing multiple times. I told DOC multiple times that I am a woman, but I was always held in men's housing. I told everyone I see a doctor for prescription hormone replacement therapy and need hair removal cream too. I did not receive these items for months.

I had to force myself to pass as a man for my own safety. I couldn't remove my hair, I didn't have feminizing hormones, and I had to protect myself. My attorneys kept asking for women's housing, so did I.

Despite trying to pass as cisgender male, people knew I was not a straight cisgender man. I began to receive threats and I reported them saying that I worried for my life if not transferred to a women's facility. I was moved in July, but to another men's facility.

I was then moved to another men's facility in less than 30 days due to threats, fighting, and ongoing fear for my life. In early August an officer approached me and said loudly within earshot of multiple people "You're going to Rosie's because you're trans."

I was told to pack my things and wait on the bridge to be moved. The bridge is an open area between housing units. While I waited there, officers continued to loudly discuss my transfer to the women's jail due to my gender.

I waited there for two hours. At the end of the two hours I was told I could not be transferred that day and would be returned to the same cell in the same housing unit that I was just removed from.

I stayed there for five more days. On the morning of the 5th day I was raped.

I was working a cleaning shift and had entered the shower area to clean. Two incarcerated men assaulted me, hitting me in the back of the head and pushing me facedown onto the floor of the shower area.

I screamed, but no one came. No officers intervened. My mouth and nose were covered, they repeatedly hit me. They removed my pants and inserted a large foreign object into me. During this time they continued to tell me I was "asking for" the sexual assault, being who I am in a men's jail. They called me horrible slurs specific to my gender identity. This lasted thirty minutes. Thirty minutes where no one came in, no one intervened.

The following day I was transferred to Bellevue after I was finally able to get a private medical appointment. After time in Bellevue I was transferred back to the same jail. The *same jail* where I had been brutally assaulted and raped.

Officers came to interview me following my return, but they did not interview me privately. They asked within earshot of other incarcerated people. These questions included information about the object used to assault me and other humiliating and traumatizing details. When I requested women's housing yet again, they denied me.

This is what happens in DOC custody. This is what we go through.

The following is a statement submitted by a Legal Aid Society client who is a transgender woman currently in NYS DOCCS custody. This client spent significant time in the NYC jails prior to her time upstate. She spent time in both the men's and women's jails and submitted this in support of Int. 625.

QUOTE: *"To do what is right without a sense of urgency is like a fireman going into a burning building but stopping to ponder over it."*

I fear that words are no use in trying to explain the urge, the need, and the dignity that are at stake for humanity, if we don't pass this bill as a stepping stone and pillar for people, gender identity, respect, and safety.

There is a legal maxim that states "the body cannot be blamed and guilty of a crime if the mind isn't guilty also." The minds of the City Council and jail administration years ago are different than the minds of today. We have advanced in science, DNA, and now Artificial Intelligence. We are wiser and we must learn from past mistakes.

I truly do not blame the current city council for the decisions that were made in the past with DOC administrations. The consequences of those past decisions are mental anguish, poor self-esteem, a degrading sense of worth, suicidal thoughts, and a constant philosophical mental battle of answering the question: "am I a human being?"

Knowing the consequences, the city council will be to blame and hold responsibility if they fail to act.

So ask yourself "What did I not do? What is it I can do a little bit more?"

The answer is to vote in favor of Int. 625

You have the power to help be the solution or to prolong the problem. You can resist change and potentially get run over by it, or you can choose to cooperate, adapt, and learn how to benefit from it. When you embrace change you begin to see it as an opportunity for growth.

The question on this matter is "do LGBTQ people feel safe?" Without Int 625 there is no law and order for LGBTQ people, we do not feel safe, there is no justice. We must stop asking if the pain of staying the same is less than the pain of growth and simply grow.

Vote in favor of Int 625.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 9/27/24

(PLEASE PRINT)

Name: Sherrijeann Rembert Bureau chief/

Address: chief of staff

I represent: DOC

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 412 Res. No. 423

in favor in opposition

Date: 09/27/2024

(PLEASE PRINT)

Name: MARION PHYLLIS Cunningham

Address: [redacted] Central Park West

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Lezandre Khadu

Address: [redacted] willoughby Ave

I represent: Freedom Andlg-

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 9/27/24

(PLEASE PRINT)

Name: Ashley Conrad

Address: 40 Rector St

I represent: Freedom Agenda

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 9/27/24

(PLEASE PRINT)

Name: Khadira Savage

Address: [Redacted] New York NY 10035

I represent: Freedom Agenda

Address: 40 Rector

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 9/27/24

(PLEASE PRINT)

Name: Joanna Delapala

Address: [Redacted]

I represent: NY NY 10035 HSC

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 206A Res. No. _____

in favor in opposition

Date: 9/27/2024

(PLEASE PRINT)

Name: Sarah Zarba

Address: _____

I represent: The Legal Aid society

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 625 Res. No. _____

in favor in opposition

Date: 9/27/2024

(PLEASE PRINT)

Name: Jay Edidin

Address: [Redacted] Forest Hills 11375

I represent: Beyond Rosie's / WCJA

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 625 Res. No. _____

in favor in opposition

Date: 9/27/24

(PLEASE PRINT)

Name: Jewel Busherville

Address: [Redacted] Elizabeth NJ

I represent: Legal Aid society

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

unknown information Date: *Sept 27, 2024*

(PLEASE PRINT)

Name: *Serrice Sermons Holman*

Address: _____

I represent: *myself and Indigenous Americans*

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: *Serrice Holman*

Address: *410*

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: *9/22/24*

(PLEASE PRINT)

Name: *Christopher Leon Johnson*

Address: _____

I represent: *Self*

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 420 Res. No. _____

in favor in opposition

Date: 9/17/24

(PLEASE PRINT)

Name: [Redacted]

Address: [Redacted]

I represent: Correction Officers Benevolent Association

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Neil Renois

Address: _____

I represent: Correction Officers Benevolent Association

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Das Monaco

Address: _____

I represent: Correction Officers Benevolent Association

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 9/27/24

(PLEASE PRINT)

Name: Allie Robertson

Address: Executive Director of 7 GA

I represent: Dept of Correction

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 9/27/24

(PLEASE PRINT)

Name: FRANCIS TORRES

Address: 75-20 ASTORIA BLVD EAST ELMHURST NY

I represent: NYC DOC

Address: SAME AS ABOVE

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 9/27/24

(PLEASE PRINT)

Name: James Carroy, General Counsel

Address: DOC

I represent: _____

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 9/27/24

(PLEASE PRINT)

Name: James Saunders, Deputy Commissioner

Address: of Health Affairs

I represent: DOC

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 9/27/24

(PLEASE PRINT)

Name: Valerie Greisokh

Address: _____

I represent: NYC DOC

Address: 25 20 Astor St Blvd

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 9/27/24

(PLEASE PRINT)

Name: Dr. Bipin Subedi, chief medical

Address: Officer for NYC H+H / CHS

I represent: CHS

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 9/27/24

(PLEASE PRINT)

Name: Jeanette Merrill Sr. Assistant Vice

Address: President of Communications +

I represent: External Affairs for CHS

Address: CHS

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 9/27/2024

(PLEASE PRINT)

Name: Richy Rose

Address: _____

I represent: Montal

Address: 195 Montague St

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Vidal Guzman

Address: _____

I represent: America On Trial

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

Name: Nadia Chait (PLEASE PRINT)

Address: 4 W 125th

I represent: CASES

Address: 4 West 125th

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 152-2024 Res. No. _____
 in favor in opposition

Date: 9/27/24

Name: NATALIE FIORENZO (PLEASE PRINT)

Address: 100 WILLIAM ST. 20TH FLOOR

I represent: NEWYORK COUNTY DEFENDER SERVICES

Address: 100 WILLIAM ST 20TH FLOOR

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: 9/27/2024

Name: Sharon Brown Jeter (PLEASE PRINT)

Address: 130-10 140 Street suite 1 Jamaica NY 11436

I represent: Rose of Sharon Enterprises

Address: [Redacted] BRlyn

NY 11436

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 423/40/1036 Res. No. _____

in favor in opposition

Date: 9/27/24

(PLEASE PRINT)

Name: Jennifer Parish

Address: [REDACTED] NY, NY 10006

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 125, 625, 1027 Res. No. _____

in favor in opposition

Date: 9/27

(PLEASE PRINT)

Name: Lucas Margucz

Address: [REDACTED]

I represent: Brooklyn Defender Services

Address: 177 Livingston Brooklyn NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 423, 417 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: R. Kranner

Address: 350 Richmond Terrace HR

I represent: CAIC

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 9/27/24

(PLEASE PRINT)

Name: Rajesh Mehra
Address: Licensed Creative Arts Therapist,
I represent: DC 37, Local 768. Rikers
Address: [Redacted], Astoria NY Island
11103

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 412 Res. No. _____

in favor in opposition

Date: 10/27/24

(PLEASE PRINT)

Name: Lucrece VanNess
Address: 253 Broadway NY NY 10007
I represent: The Commission on Racial Equity
Address: 253 Broadway NY NY 10007

Please complete this card and return to the Sergeant-at-Arms