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**Testimony before the  
New York City Council  
Committee on Criminal Justice  
Chair, Keith Powers**

**And  
Committee on Women and Gender Equity  
Chair, Darma Diaz**

**By  
Anne Penson  
Executive Director of Women's Initiatives**

**April 27, 2020**

Good morning Chair Powers, Chair Diaz, and members of the Criminal Justice Committee and Committee on Gender Equity. My name is Anne Penson and I am the Executive Director of Women's Initiatives at the Department of Correction. I am joined today by Deputy Commissioner of Programming and Community Partnerships Dr. Judy Beale, Deputy Commissioner of Investigation and Trials Sarena Townsend, and Deputy Warden in Charge Elyn Rivera, who oversees operations at the Rose M. Singer Center, the Department's female facility. I am also pleased to be joined by colleagues at NYC H+H Correctional Health Services and the Mayor's Office for Criminal Justice, both of whom are important partners in the care of women in custody. The Department recognizes that women involved in the justice system are often victims of trauma and have high rates of substance use and mental illness; therefore, the Department provides gender responsive care and programming to support the mothers, sisters, and daughters placed in our custody. I thank you for the opportunity to update the Council on the Department's efforts to support its female population and to comment on the three bills being considered at today's hearing.

The number of women in custody has significantly declined in recent years. Whereas the population was almost 700 in April of 2016, today there are approximately 250 women in the Department's care. Regardless of the number of women in custody, the Department maintains a facility that provides a variety of programming, reentry, and healthcare services that are responsive to women's unique needs. Department Counselors meet with each woman who comes into custody to assess her individualized needs and challenges and create a targeted plan that includes both jail-based and community-based services and will support a successful reentry into the community. Programming and reentry services are tailored to women and incorporate gender-responsive, trauma-informed practices, and also focus on strengthening family connections through visit



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assistance for women with children. In addition, RMSC operates a clinic that provides a broad spectrum of women's health services, houses women in need of additional support in mental health and substance use in dedicated units and provides an array of life and vocational skill development.

In an effort to further improve programmatic services, in 2020, the Department redesigned its program delivery model to take an individualized, case management approach to the provision of programs and services for all persons in custody. As part of this process, incarcerated individuals meet one-on-one with a Counselor and are referred to programming based on their unique needs, including services designed to support family relationships and address trauma. This new service delivery model will better connect individuals in custody with services that support their specific needs and better support them in successfully reentering the community.

In recent years, the Department has implemented a series of initiatives to address the unique needs of women in DOC custody. These initiatives are designed to strengthen mother-child relationships, empower women, connect them with resources in the community, improve their visit experience, train staff on gender-responsive practices, and ensure that DOC's policies are gender-responsive. Notably, the Department created a nationally recognized off-island visitation program that enabled mothers to visit their children at the Children's Museum of Manhattan, strengthening the mother-child bond and lessening the impact of incarceration on the family. Over the course of the pandemic, the Department has afforded televisiting for persons in custody and worked with the Osborne Association and Hour Children to continue to facilitate supportive family visitation. We are continuing to work with these partners to develop more interactive televisiting opportunities between mother and children and to further support family connections during this unprecedented time. While some of these initiatives have been borne out of the challenges presented by the pandemic, we will continue to find ways to improve programming and services for women in custody and carry the lessons learned during the past year into future programming plans.

During the pandemic, the Department has continued to work with its community partners to provide modified services, including dedicated discharge planning hotlines. These hotlines connect incarcerated women to discharge planning caseworkers, ensuring women maintain connection to services that will be available to them upon release. In the coming months, the Department will also be collaborating with MOCJ to further assist women in custody with post-release planning and services. Although we have not yet been able to welcome our community providers back into our facilities, DOC programming staff have been providing direct programming services to people in custody since October, including individualized assessments and case management, and counseling and on-unit programming in a socially distanced manner.

In addition, as part of our commitment to address the unique needs of women in our care, we are working with a national expert to develop a staff training on gender-responsive practices and



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trauma-informed care. We are also working with the expert to review existing policies and develop new ones to ensure that gender-responsive approaches are reflected in our daily operations.

Finally, the Department takes the safety and welfare of women in custody seriously. Violent incidents and uses of force involving women in custody remains low and the Department works to provide staff with trauma informed training to help staff maintain a supportive environment for the women in our care. In 2019, the RMSC passed a PREA compliance audit. The Department's Investigation Division exceeded standards in that same audit and continues to receive ratings of substantial compliance from the Nunez monitor for its investigations into allegations of sexual harassment and abuse.

With respect to the proposed legislation:

### **Introduction 1209**

The Department recognizes the support doulas bring to mothers during the birthing process. As such, the Department supports this legislation but for the safety of all involved would advise the doula needs to be subject to and clear a standard security review prior to the mother's due date. We look forward to working with the Council in further discussing this legislation.

### **Introduction 1491**

With regard to Intro 1491, the Department enthusiastically supports the provision of trauma-informed training and interview techniques for investigators who review sexual abuse and harassment allegations. The Department currently mandates such training and agrees with the Council that its provision is critical to investigators' success in investigating sensitive matters.

### **Introduction 1646**

With regard to Intro 1646, the Department agrees with the Council that a centralized case management system for sexual abuse cases would support the overall work of the investigations division. The Department previously agreed to build such a system through a corrective action agreement with the Board of Correction. Since that time, the Department has issued an RFP and is in the final phases of establishing a vendor to build and implement such a system.

### **Conclusion**

The Department of Correction is committed to meeting the needs of women in its care and appreciates the Council's interest and attention to this often-overlooked group. My colleagues and I are happy to answer your questions.

NYC Council Committee on Criminal Justice jointly with the Committee on Women and Gender Equity  
April 27, 2021  
10am-2pm

Good Morning queens and kings,

My name is Sister Eli. I am a graduate of Women's Prison Association leadership and media project and a member of the Justice for Women COVID19 Task Force. Did you know that I had to seek these programs out myself? No referrals were made by NYC Probation to assist me and my child be successful in the community. Over 90% of women are gender expansive people detained on Rikers are held at Rose M. Singer. In Mid-March of 2021 19% were for parole violations. In Mid-November of 2020 23% had been diagnosed with a serious mental health illness like my mother who was suffering from grief of my father dying and a psychotic break. One night she was pushed by a Greek male whom she pushed back. They began tussling and when the police arrived only she was arrested and charged with a felony. She was away from her family, unable to pay her rent, and unable to participate in her defense or community programs for several months. While detained she refused to shower because other women with mental illness often defecated in the showers, she witnessed correction staff being disrespectful and unprofessional in the way they spoke and had inappropriate relationships with the people detained that they have power and control over. Yet the women and gender expansive people are expected to respect each other and staff?! In past reports 60% of sexual assault cases were against officers. Why are we not complying to PREA? There is no such thing as consent when you are in DOC custody.

With these and many other issues being reiterated today it makes logical and fiscal sense for Rose M. Singer to be the next Rikers location to close. We don't need a smaller location in Queen County because a majority of open cases are in Manhattan. We need investments in our community and alternatives to incarceration. Because women are ensnared in the system due to poverty, drug addiction, mental illness, sexual assault, and criminalized for surviving we need programs that address these needs. Mental health treatment, harm reduction treatment because addiction is a chronic medical condition, access to educational programming from GED up to graduate school, vocational skills, enforcement of ban the box Article 23-a reports, fair affordable clean housing for all including NYCHA/Section 8, affordable childcare for all and afterschool programs for all ages not just middle schoolers so we can attend programming and not be reliant on an intimate partner or systems that overpolice us. We need to remain with our children, with our family, within our community. We deserve stability. If you are not willing to commit to decarceration then you are not committed to Public Safety, you are committed to recidivism because we are not given a true second chance to rebuild, reintegrate back into our families and communities. Thank you for your time.

**Testimony of**  
**Alison Wilkey, Director of Public Policy**  
**on behalf of**  
**John Jay College Institute for Justice and Opportunity**  
**before**  
**The Council of the City of New York**  
**Committee on Women and Gender Equity**  
**Committee on Criminal Justice**

**April 27, 2021**

The John Jay College Institute for Justice and Opportunity’s mission is to create opportunities for people to live successfully in the community after involvement with the criminal legal system by addressing structural racial and economic inequalities.

In 2017, we issued [a report on women incarcerated in New York City](#). Many of the report’s findings are as relevant today as they were four years ago. Our report found that most women incarcerated at Rikers were being held pre-trial. We reported that the incarceration of women has lasting impacts on children and families. We found that most incarcerated women were Black and Latinx. And we reported on the harm that comes to women while incarcerated, particularly the alarming rates of sexual and physical assault.

While the number of women held at Rikers Island has dropped since we issued that report, there remains much to do. The current average daily population is approximately 280 women and gender expansive people. However, with the right policy changes and investments, it is feasible for New York City to come close to eliminating the incarceration of women.

To achieve this, the City must address the housing needs of those impacted by the criminal legal system. Upon admission to Rikers, 21% of women identified as being homeless or having unstable housing. 32% identified as being homeless or having unstable housing upon release from Rikers.

Overall, [formerly incarcerated women are more likely to be homeless than formerly incarcerated men](#). This is also a racial justice issue. [Black women experience the highest rates of sheltered homelessness](#)—nearly four times the rate of white men and twice as high as the rate of Black men.

Lack of access to housing is relevant to reducing incarceration at Rikers in two ways. First, when people are released from jail, lack of stable housing makes it difficult for people to reconstruct their lives, achieve economic stability, and care for their families. Too often, this puts people in

the precarious position trying to meet basic survival needs. Second, many alternatives to incarceration and treatment programs are difficult to access and complete successfully without a stable home.

City Council can take a tremendous step toward addressing the housing needs of formerly incarcerated women and reduce the number of people held at Rikers by passing [Intro 2047, the Fair Chance for Housing Act](#). The bill would eliminate the use of conviction records in housing. This would increase access to housing for the [117,199 New York City women who have a conviction](#). Passage of the bill would increase access to housing, help women exiting Rikers, and allow more women and families currently living shelter to find their own housing—all without cost to the City.

The City administration supports Intro 2047, and the Council must act now to move it to a vote at the next stated meeting. Passage of this bill is critical to continued reduction the number of people incarcerated at Rikers, to addressing the City's housing crisis, and to achieving justice for women.

Alison Wilkey  
Director of Public Policy  
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No. 1646. On behalf of the New York City Alliance Against Sexual Assault, I am here to express our support for changes to amend the administrative code of the city of New York, in relation to requiring the department of correction to use an electronic case management system to track investigations of sexual abuse.

Sexual violence is an epidemic and a pernicious force in our society. It is a pervasive concern in the United States. A report from the National Intimate Partner and Sexual Violence Survey estimates that 36.3% of women and 17.1% of men in the United States have experienced sexual violence.<sup>1</sup>

Through our work on the ground, we know there are numerous concerns related to investigations, such as the high number of assaults that were never reported, to systemic issues with the response to sexual assault. We support establishing and implementing processes that prioritize the investigation and adjudication of sexual assault cases.

Tracking systems provide for a comprehensive analysis of investigations in a jurisdiction and state. We support a framework to investigation which ensures proper tracking and accountability mechanisms. The ability to track patterns is a valuable instrument to craft internal law enforcement policies and procedures.

A system which allows us to track patterns amplifies our ability to find structural inadequacies and gaps and identify specific needs of certain populations. We are in favor of policies which support uniformity in the investigations of sex crimes.

We support approaches to sexual crime investigations that foster a culture of accountability. A tracking system embodies a tool for law enforcement to support investigations and crime prevention. We believe a tracking system creates transparency and fosters public trust with law enforcement and also provide a level of oversight.

We resonate with a framework that empowers survivors and the public at large with vital information. We acknowledge that the criminal justice system may be retraumatizing for survivors. We recognize the need for criminal justice mechanisms which are trauma informed in that they are responsive to the holistic needs and healing process of survivors.

We believe that the proposed tracking system may be expanded, to serve the unique needs of survivors. In light of this, we respectfully offer the following recommendations:

We are in favor of a tracking system that keeps survivors informed and appraised as they navigate the criminal justice process, which may feel daunting and fraught with uncertainty. Accordingly, we recommend that the DOC implement a notification system for survivors.

Further, we recommend the DOC implement an easily accessible, conspicuous streamlined website designed to help parties navigate the complex system. Additionally, we recommend the DOC implement an oversight system for survivors to inquire about any questions regarding the status of their investigation.

In conclusion, we stand in support of Int. No. 1646. We resonate with policies that advance justice and the dignity and humanity of survivors, and strengthen the capacity of law enforcement to adjudicate crimes. We recognize these endeavors advance the public interest in institutional accountability and safer communities.



Int 1491 - By Council Members Rosenthal, Brannan, Chin and Lander.

Testimony in regard to A Local Law to amend the administrative code of the city of New York, in relation to requiring the commissioner of correction to develop a comprehensive training program for the investigation of sexual crimes.

On behalf of the New York City Alliance Against Sexual Assault, I am here to express our support for changes to the administrative code of the City of New York, to require the commissioner of correction to develop a comprehensive training program for investigators.

Sexual violence is a pervasive issue and endemic in our society. Research demonstrates the magnitude of the issue. One in three women and one in six men have experienced some form of sexual violence during their lifetime, according to the Centers for Disease Control and Prevention's (CDC) National Intimate Partner and Sexual Violence Survey.<sup>1</sup>

Research shows the most vulnerable and marginalized members of our community, such as LGBTQ people and people of color, are disproportionately affected by sexual violence.<sup>2</sup> We recognize that systemic failures in the response to sexual assault crimes has hindered their prosecution and endangered our community. For every 1,000 sexual assaults reported in the United States, fewer than five rapists will be incarcerated, according to the Rape, Abuse and Incest National Network's analysis of federal criminal justice data.<sup>3</sup> We recognize that sexual violence is an instrument of oppression that demands our attention.

The historical events of this past year has shown a spotlight on police brutality. As the public narrative surrounding justice has come to the forefront of our attention, now is the moment to reflect on how we can shift from a lens of punishment to advancing transformational justice and community and survivor healing

As a leader in providing training to victim services providers, we recognize the value of trauma informed care, in accordance with research. To fulfill this imperative, it is critical that investigators understand the unique needs of marginalized populations and the nature and consequences of victimization.

Lack of knowledge, historical gender biases, and misconceptions have historically diminished the ability of law enforcement to investigate and adjudicate sex crimes.<sup>4</sup> We support an approach which gives investigators a more nuanced understanding of how survivors may respond to questioning and the investigative process. We recognize how the complex manifestations of trauma impact play out in the context of a sexual assault investigation. Trauma profoundly affects the dynamics of memory, functioning and behavior.<sup>5</sup>

We recognize Domestic violence and sexual assault victims frequently encounter police services that mirror the power and control experienced in the abusive relationships that caused past trauma. This retraumatizes victims. It is paramount that we arm investigators with the information and resources necessary to conduct fair and balanced investigations

-Our work from-on the ground shows us that many survivors experience continuing trauma that may affect their physical, emotional, social, and economic well being. We recognize that investigators can minimize this trauma by cultivating an environment rooted in compassion, mutual respect and trust.

A supportive, trauma informed approach positively impacts all facets of the investigation process and builds rapport. Research shows framing interviews in a trauma informed way can lead to survivors engaging in the interview process in a more effective way, thereby yielding stronger information and more effective investigations and case outcomes. Research has shown how a lack of understanding about how victims of violence react to trauma impacts investigation. As the potential effects of trauma are sometimes misperceived by police officers as attempts at evasion or falsification, some officers to cast doubt on the veracity of reporting parties. We envision a culture where survivors are heard, and their humanity and dignity are honored.

We support curriculum which shows investigators how they can be sensitive to survivors' needs and avoid retraumatization, while employing the most effective methods to investigate crimes. The discourse on sexual assault is pervaded by biases, misconceptions and stereotypes and victim blaming. These forces undermine the ability of investigators ~~to~~ to serve impartially and perpetuate the cycle of sexual violence

-Trauma informed training programs reflect our commitment to justice and fairness and -facilitates the gathering of information in a survivor centered manner. We believe all parties can benefit if trauma-informed training is provided in a manner that is fair, equitable and nuanced. We support policies that foster a culture of accountability and advance uniformity in the training of officers.

Sexual assault survivors endure retraumatization from uninformed or inadequate criminal justice system and community responses. Using a trauma-informed approach, and believing a victim prevents secondary trauma. In the devastation and aftermath of a sexual assault, we recognize that an investigator's communication and style impacts the survivor's engagement with the investigation.

We recognize that inadequately trained and uninformed police officers can contribute to secondary victimization and hinder successful investigations and prosecution. . We support training which upholds the integrity of the investigative process. Trauma informed approaches to investigation serves public welfare. By understanding trauma in the context of sexual assault and implementing trauma-informed investigative strategies, law enforcement can forge stronger reports for prosecution . Improving the response of the criminal justice system to victims of sexual crimes critical for the successful identification and prosecution of sexual predators and to prevent offenders from reentering our communities to commit new crimes.-

It is imperative that we examine the myths, rape culture, and potential biases around sexual assault and its impact on investigations. Investigators and prosecutors must understand the complex psychological, cultural and social challenges that sexual assault victims face. Biases compromise our response to sexual assault. Rape myths forge a context of intimidation and fear and discourage victims from reporting. This, compounded by the profound social stigma surrounding sexual assault creates a barrier to disclosure for sexual assault victims.

We affirm approaches to police investigations which validate the survivor's perspective. We recognize the influence societal myths and stereotypes play on the investigation process. Questions such as, "What were you wearing?", and "How much did you have to drink?", and questions that speak to myths related to gender roles and who can be a victim of sexual violence reinforce rape culture and undermine the investigation process.

The fear of not being believed creates a profound barrier to disclosure for sexual assault victims. According to many experts, the attitude conveyed by law enforcement is "the single most important factor in determining the success of the victim interview, and therefore the entire investigation."<sup>6</sup> The response of law enforcement can directly impact a victim's ability to heal as their willingness to actively participate in an investigation by law enforcement. Improving the response of the criminal justice system to victims of sexual assault and sexual abuse is critical for the successful identification and prosecution of sexual predators and to prevent offenders from reentering our communities to commit new crimes.

<sup>7</sup>We affirm policies which empower and support survivors to speak out.

We recognize that inadequately trained and uninformed police officers can contribute to secondary victimization. Sexual assault investigations and prosecutions require victims to cooperate fully and -victims trust that the criminal justice system will treat them with fairness and respect. Shifting towards a trauma-informed criminal justice system approach to sexual assault investigations and prosecutions will help accomplish this. Further, this remedies the historical difficulties and gender biases that have pervaded sexual assault prosecutions..

It is our firm position that integrating trauma informed approach into the investigation process promotes justice safeguards fundamental human rights and community welfare. We support training which upholds the integrity of the investigative process. In conclusion, the Alliance strongly supports the development of a training program for the investigation of sexual crimes.

Respectfully,  
Charlotte Kaysen, J.D.  
Volunteer Law Graduate  
New York City Alliance Against Sexual Assault

April 27, 2021

From: Danielle Minelli Pagnotta, Executive Director, Providence House, Inc.

To: Members of the Joint Committees Criminal Justice and Women and Gender Equity

Subject: T2027-7296 (Oversight - Women's Experiences in City Jails), Int 1209-2018, Int 1491-2019, Int 1646-2019T

Good afternoon. I wish to thank Chairs Diaz and Powers and the members of the Committees for holding this hearing and inviting public testimony. My name is Danielle Minelli Pagnotta and I am here as the Executive Director of Providence House, a non-profit founded in Brooklyn 40 years ago now serving more than 400 women and families impacted by homelessness, mental illness, or justice involvement at nine transitional and permanent residences in the borough. Our work is to ensure these New Yorkers' safety and security; help them overcome barriers that have kept them from thriving to this point; and support them in acquiring a greater sense of independence, action, and hope in shaping their own futures. We are proud to share this work with other organizations as part of the Women's Community Justice Association and the Beyond Rosies Campaign. Finally, I am speaking as a New York native and a resident of Queens. In all of these capacities, I feel that closing Rikers Island should remain among the City's and the Council's very top priorities until every person is off that island.

There's no call to waste two minutes recounting the well-known reasons for closing Rikers Island, in particular The Rose M. Singer Center. The events of the past year have done only more to highlight the horrible conditions for New Yorkers held there, and further shown the moral imperative to immediately change the way justice is perceived and pursued. Simply, there is unnecessary suffering, lives ruined for no reason, and an outrageous injustice going on every day here in the city.

Near the top of the articles of agreement the City adopted in October 2019 is a resolve to "Increase ATI funding to reduce the number of people serving city sentences as much as possible." I encourage you all to create and sustain as much urgency around that priority as you can. Providence House, along with other fine organizations represented in this room, are currently operating residences that serve as alternatives to the dehumanizing and unsafe confinement at Rikers. These are solutions that keep women in the community, connect them with services to address mental health and other needs, support them in developing more healthy relationships and more productive patterns for their lives, and—most importantly—avoid further trauma, isolation, and alienation. This is especially important for programs like Providence House's, which reunites women with their children and prevents the trauma from rolling into another generation.

These are excellent alternatives to the horrible reality of Rikers, and they are happening today. I am pleased to report that funds for these programs are included in the upcoming fiscal budget. I would urge these committees to work with the Mayor's Office of Criminal Justice and any other necessary parties to release the transitional housing RFP and ensure the continuity of

such programs. They are an essential part of the work of closing Rosie's and Rikers, and they are extremely inexpensive in comparison. Our annual cost per bed at Providence House is about \$35,000 per year. That's less than 10% of the cost of keeping a woman at Rosie's for a year—not counting the \$107 million in capital costs on the table just to render the facility habitable for a few more years.

There are better ways than Rosie's and Rikers that are more fair, dignified, and effective, much less expensive, and operating today. And there are clearly funds available to move in this direction. All that's needed is some *urgency* to move forward. Please do whatever is necessary to release the RFP and facilitate the funding for ATI programs, which will begin giving substance to the City's 2019 articles of agreement.

Thank you again to the Joint Committees for hearing testimony, especially from those women who have been through the system and who are willing to share their experience with us. It is through listening to these women that we will be able to begin to understand the traumatic impact that any time spent on Rikers creates, and collectively commit to shutting it down as quickly as possible. Please feel free to contact me with any questions.



**TESTIMONY OF  
THE FORTUNE SOCIETY**

**THE COMMITTEE ON CRIMINAL JUSTICE AND  
THE COMMITTEE ON WOMEN AND GENDER EQUITY  
OF THE NEW YORK CITY COUNCIL**

250 Broadway, New York, NY

Tuesday, April 27nd, 2021

**SUBJECT:** Womens' experiences in city jails

**PURPOSE:** To discuss how to both reduce and improve the incarceration of women  
in New York City

Presented by

**Brittany Smith**

Senior Director of Education and Training

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## Testimony by The Fortune Society, 4/27/21

Good morning. My name is Brittany Smith and I am the Senior Director for Education and Training at the Fortune Society. The Fortune Society is a 54 year old organization that supports successful reentry from incarceration and promotes alternatives to incarceration, thus strengthening the fabric of our communities. We do this by: believing in the power of people to change; building lives through service programs shaped by the experiences of our participants; and changing minds through education and advocacy to promote the creation of a fair, humane, and truly rehabilitative correctional system.

I myself was incarcerated for two and a half years in two different correctional facilities in Massachusetts. In many ways, every day of my incarceration could feel like an affront to my dignity, as a woman and as a person. An institution's policies, practices, conditions, and norms are critical aspects of any person's jail or prison experience. For example, in the prison where I was incarcerated, all respect of my privacy as a woman completely evaporated, as male guards could directly look into the window of my cell and watch as I urinated. Every month, I would have to ask those same guards for sanitary pads: I would be given two at a time, while being told that I could wait to ask for more tomorrow. And then, of course there were the nearly constant strip searches, as women had to comply with guards who would demand that they "show some more pink."

Then there were the conditions that were even worse: women with mental illnesses were shackled to beds in the infirmary, and every time a woman filed a grievance, she would consistently begin getting tickets for allegedly violating some rule of the prison, in a clear act of retaliation by correctional staff. In other words, in jail or prison, every part of your life is controlled: these experiences build up one by one, to create a demoralizing and ultimately dehumanizing experience.

The degrading environment of jails or prisons is one reason that we need to begin the decarceration of women in places such as Rikers Island. However, right now the opposite is happening: in the spring of 2020, the number of women on Rikers Island was at an all-time low of 140 women, but as of last week, that number had nearly doubled to 260.<sup>1</sup> Why and what can we do to put a stop to it?

First, it is important to remember that some of women currently in custody at Rikers' have committed no crime at all. Instead, these women are being jailed for parole violations—and 42% of those violations are of a civil nature.<sup>2</sup> These are called "technical parole" violations, and they consist of behaviors like being late for a meeting with a parole officer or still struggling with a drug or alcohol addiction. The state bill that would restrict the ability to incarcerate for these technical violations is called "The Less is More Act," and it is currently before both the Assembly and the Senate.<sup>3</sup> I would highly encourage our city councilmembers to make their own support for this bill clear to their representatives, as the legislative session in both the city and the state are rapidly coming to a close.

The conditions of confinement at Rikers' Island are also a great cause of concern. In addition to the disrepair of the entire jail, there have been years of allegations of sexual abuse by the staff at the Rose M. Singer Center, where the females reside. In 2015, then Public Advocate

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<sup>1</sup> Vera Institute, JailVizNYC Database (Apr. 22, 2021), available at [https://vera-institute.shinyapps.io/nyc\\_jail\\_population/](https://vera-institute.shinyapps.io/nyc_jail_population/)

<sup>2</sup> *Id.*

<sup>3</sup> See S.1144 and A. 5576.

Leticia James, said that statistics showed the “Rose M. Singer is one of the worse nine jails in the country,” while a class action lawsuit was filed at the same time time.<sup>4</sup> While that lawsuit has since settled, new lawsuits have emerged constantly since then, and the *New York Law Journal* in 2017 called the rape of women at Rikers a “daily occurrence.”<sup>5</sup> Women have also reported on the consistent retaliation that is taken towards women who file grievances within the facility, much like what I saw and experienced.<sup>6</sup> While Rikers is not due to officially close until 2027, City Council needs to address these issues now: the bills formally before the committee, such as Int. 1491 and Int. 1646, will allow for both better training and a more consistent sexual reporting system within the Department of Correction.

Finally, one last way to improve the physical and emotional conditions of a jail whose admission rates continue to rise is to require every correctional officer, in both the women’s facilities and the men’s, to wear a body camera. The Fortune Society has written both state and local legislation that would compel this, while also requiring public reporting about the events captured on camera as well. If it were not for then-17 year old Darnella Frazier walking to the Cup Foods store in Minneapolis and bravely filming a murder being committed by a police officer, there would have never been any justice for George Floyd. However, there are no cell phone videos in jails and the stationary cameras are inadequate.

In fact, these cameras do not capture every moment of interaction, including any violence that takes place within cells.<sup>7</sup> The time has come for jail and prison body cameras to move beyond the pilot phase at Rikers, and into everyday use by all officers at all city jails. As body cameras catch any potential abuse from correctional officers, the level of dehumanization that so many incarcerated women experience may go down. The time has come to acknowledge the troubling experiences of women in New York City’s jails, and then to take down the norms of Rikers Island, as we move towards taking down its actual walls as well.

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<sup>4</sup> Alex Brook Lynn, *The Unspoken Rape Crisis at Rikers’ Island*, VICE, Sept. 24, 2015, available at <https://www.vice.com/en/article/nz8g3d/the-unspoken-rape-crisis-at-rikers-island>

<sup>5</sup> Mitchell A. Lowenthal, *The Daily Abuse of Women at Rikers*, THE NEW YORK LAW JOURNAL, Aug. 17, 2017, available at <https://www.law.com/newyorklawjournal/almID/1202795792332/The-Daily-Abuse-of-Women-at-Rikers/>

<sup>6</sup>See e.g., John H. Tucker, *Rape at Rosies*, INTELLIGENCER, Jun. 2018, available at <https://nymag.com/intelligencer/2018/06/rape-at-rikers.html>. (“And this isn’t the half of what Hamilton [a Legal Aid Lawyer] says she’s heard over the past eight years of interviewing Rosie’s [The Rose M. Singer facility] inmates, some of whom think sexual victimization is just part of what it means to be in jail — *What can you do?* — and some of whom are terrified to complain for fear of retaliation.”)

<sup>7</sup> See e.g., *Even as Many Eyes Watch, Brutality at Rikers’ Island Persists*, THE N.Y. TIMES, Feb. 21, 2015, available at <https://www.nytimes.com/2015/02/22/nyregion/even-as-many-eyes-watch-brutality-at-rikers-island-persists.html>



# I Got Covid at Rikers. I'm Still Suffering.

What happened in prisons during this pandemic is criminal.

**By Michele Evans**

Ms. Evans is a former software engineer. She was incarcerated at Rikers during the coronavirus pandemic.

Feb. 4, 2021

When I arrived on Rikers Island in January 2019 to await trial for an assault charge, I knew it would be dangerous — after all, the women's jail is notorious for chronic abuse, unsanitary conditions and violence. But what I did not know was that I would become one of hundreds of inmates at Rikers to contract the coronavirus.

I remember watching the TV in early March 2020 when a lawyer from Westchester County was reported to be the source of several cases in New York.

In the beginning, none of the officers wore masks. When we asked why, officers said they were told the masks would scare us. But we were already scared. We were glued to the television, watching Governor Andrew Cuomo's daily news conferences. It was the only time we did not argue over what to watch.

All eyes were on New York, particularly Queens, as the virus's epicenter, but to us, Rikers felt like ground zero. In mid-March, a guard at the main gate tested positive. Soon after, we heard the virus had hit one of the dorms, where inmates sleep as many as 50 to a room and beds have only an arm's length of space between them.

When a woman in my dorm started coughing in late March, we were placed in quarantine. A poster on our door warned others not to enter. Other posters instructed us to do the impossible: Practice social distancing. Officers told us to sleep head to toe, supposedly because it would decrease transmission risk. Yet they still came in to conduct searches, lining us up shoulder-to-shoulder against the wall while they rifled through our belongings. We were not getting tested regularly.

All programs and services were canceled, including religious meetings. Cut off from those daily group meetings, like Alcoholics Anonymous that were led by counselors, we felt lost. We tried to keep them going on our own. We'd cite the Serenity Prayer — "God, grant me the serenity to accept the things I cannot change."

We were like sitting ducks.

From my dorm, I had a penthouse view of La Guardia Airport, where I watched it come to a screeching halt. Planes were usually 15 deep waiting for the runway. Now the runways were empty. It seemed like no one was coming to or leaving New York.

Women in my dorm were breaking down on the phones, yelling, "Get me out of here. I DON'T WANT TO DIE!" to their lawyers on the other end. I was 47 years old at the time, and I did not have pre-existing conditions. And yet, I felt frustrated when my lawyers explained that they had to prioritize the release of those deemed "high risk" for complications from Covid.

Rumors started swirling that we were running out of supplies like soap. Inmates hoarded toilet paper. We could not buy hand sanitizer, and the closest thing we had to bleach was really just mold and mildew remover.

I first got a headache in early April. Then I felt short of breath when I was cleaning the shower. I lost my sense of smell. I thought it was all in my head, but I knew I was in trouble when I started coughing.

I was placed in a small cell by myself where I slept all day. A nurse and doctor checked on me to take my temperature, take a pulse/oxygen saturation reading and prescribe medication like antibiotics and pain pills. An on-duty officer would do rounds every 15 minutes to make sure I was still alive.

After seven days in isolation, I was sent back to my dorm. It was my 48th birthday that day.

I eventually tested positive for Covid antibodies and contacted a bail relief advocate who helped me post bail. She arranged with the mayor's office for me to go to a hotel upon my release on June 5. When I was being discharged, a doctor informed me I had Stage 3 kidney failure. Covid was the culprit.



Brittainy Newman for The New York Times

The world was not as I left it. The city was engulfed in protests and pain. There was a curfew in place. I wasn't used to it. I barely left my room and spent my time curled up in bed. Eventually, I moved to transitional housing, where I currently live.

I am now what is known as a Covid long-hauler: someone who feels the health effects of the disease for weeks or months. I have memory problems and heart palpitations. I am experiencing hair loss; it comes out in clumps. I battle fatigue and shortness of breath daily. I live on the third floor and have to pause on each landing because of how winded I am.

What happened in prisons during this pandemic is criminal. As hard as it is to rebuild your life after serving time — particularly for women — there are those who are trying to do it while also battling the long-term effects of Covid. I should have never gotten sick. Inmates are still getting sick. More than 2,300 prisoners around the country have died from Covid since March. It's completely unjust. And in New York, Governor Cuomo, Mayor Bill de Blasio, our district attorneys and others have not done enough to facilitate the release of people from custody. Governor Cuomo still has yet to make the vaccine available to incarcerated New Yorkers; governors in other states have already begun this process.

Though courts are beginning to reopen, the wheels of justice turn slowly. For my health, it is too little too late.

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Dear Committee Members:

I am an Associate Professor of Nursing at Hunter College. I have two decades of experience with families in the criminal legal system. I led the Association of Women's Health, Obstetric, and Neonatal Nurses committee on standards of nursing care for incarcerated pregnant and postpartum people. I was also an invited member of the most recent American Nurses Association committee on standards of nursing care for incarcerated people.

My testimony relates to the proposed law permitting pregnant incarcerated individuals in department of correction custody to utilize doula and midwife services in the delivery room. I am in full support of access to doula and midwifery services for incarcerated pregnant people. Doulas and midwives can provide the high quality, compassionate care all women deserve.

I encourage the council to go further and permit access to doula and midwifery services in the prenatal and postpartum period as well. Doulas help women mentally prepare for birth, and they can help incarcerated women process separation from their babies after birth. Midwives provide high quality, comprehensive prenatal, birth, and postpartum care. Maintaining caregiving relationships throughout a woman's pregnancy and postpartum recovery is critical to a positive and safe birth experience.

I also advocate consideration of laws that would facilitate quick release of pregnant and postpartum people who are pre-trial or serving city sentences. The state of Minnesota just passed a [law](#) that permits release of pregnant and postpartum people into community-based programming. I encourage the committee to explore adapting this law for our municipal context.

Excellent community-based programming already exists in New York City. For example, the Women's Community Justice Project provides housing and wraparound services (supportive housing) to women released from Rikers Island. They have sites in Queens and Brooklyn. Each site has expertise in working with pregnant and postpartum women, as well as mothers of minor children. This program could be scaled up to meet a greater need if provided the proper resources.

Sincerely,



Lorie S. Goshin, PhD, RN, FAAN

**Trinity Church Wall Street - Testimony - City Council Criminal Justice and Women/Gender Equity**

**April 27, 2021 | Subject:** Oversight - Women's Experiences in City Jails

Good afternoon Chair Powers, Chair Diaz and members of the Committees on Criminal Justice and Women and Gender Equity. My name is Susan Shah and I am Managing Director for Racial Justice at Trinity Church Wall Street. Thank you for providing Trinity with the opportunity to testify at today's hearing.

Trinity Church Wall Street is an active Episcopal church down the street from City Hall with more than 1,600 parishioners, who represent all five boroughs and form an ethnically, racially, and economically diverse congregation. In addition to our ministry, we have an established grants program that provides more than \$20 million in annual funding to partners to address racial justice by ending cycles of incarceration and homelessness. We are proud to support organizations like the Women's Community Justice Association, the Women's Prison Association, Providence House, Hour Children, Housing Plus Solutions, and Ladies of Hope Ministries--organizations that prove the potential for combining housing with reentry services for justice-involved women and families.

Last year, Trinity Church helped to form the Faith Communities for Just Reentry campaign, a coalition of over 40 faith leaders from across the City that seeks to address the urgent needs of justice-involved individuals leaving City jails amid COVID-19, as well as improve the City's support and services for New Yorkers reentering society following incarceration.

The Faith Communities for Just Reentry policy platform was informed by feedback and concerns we gathered from our partner advocacy organizations and service providers who work directly with justice-involved individuals reentering society. You will hear from some of our partners today on their experiences working with justice-involved women amid COVID-19. However, we wanted to spend a brief period of time discussing some of the overarching concerns that we have heard throughout the pandemic.

Prior to COVID-19, New York City's jail facilities for women, most notably the Rose M. Singer Center (Rosie's) on Rikers Island, were plagued with myriad issues that included chronically unsafe living conditions, substandard medical services, and even instances of [abuse](#) from staff. The City's jail facilities have failed justice-involved women for years, [four in five](#) of whom are mothers and who enter the City's

justice system with disproportionately higher rates of mental illness, substance abuse, and experiences of trauma.

With the onset of the pandemic, the City's jails, like prisons [across the country](#), have become hot spots for COVID-19 transmission, and threatening the health and wellbeing of justice-involved women. Over the course of this past year, numerous [stories have detailed](#) how Rosie's and other jails across the City have failed to provide sufficient PPE and testing, as well as enough sanitizing and [crowding prevention](#) measures to mitigate the spread of COVID-19. These issues have led to alarmingly higher rates of COVID-19 in carceral settings than the general public in New York City.

The City needs to do more to protect the health of incarcerated women in City jails and ensure that individuals being discharged from City jails are provided with the resources needed for their safety upon reentry through the end of the COVID-19 pandemic and into the future.

To that end, Trinity recommends that the City implement the following measures and policies to protect the wellbeing of incarcerated women and others leaving City jails:

1. **Provide every individual with access to the COVID-19 vaccine, as well as COVID-19 testing upon discharge.** We commend the New York Supreme Court ruling that requires the State to provide access to the vaccine for incarcerated individuals and urge the City and State to move quickly to ensure timely access. The City also needs to guarantee COVID-19 testing as part of the discharge process to mitigate the spread of COVID-19 for those returning home to their families and communities.
2. **Issue IDNYC cards to individuals upon release from City jails.** Service providers have shared with us that many individuals are being released from Rikers without official government identification, which causes significant problems in accessing housing, employment, public benefits, and other services that are critical to ensuring stability when readjusting to life after incarceration.
3. **Ensure that individuals released from City jails have immediate access to Medicaid coverage upon discharge.** Reentry service providers have also noted that many of their clients are released from jail without their Medicaid properly activated. Given that the majority of women serving time in City jails have mental health or substance abuse issues, this gap in coverage creates significant issues in accessing needed medications and healthcare in a timely manner and is only compounded by the threat of contracting COVID-19.
4. **Ban housing discrimination on the basis of arrest or criminal record in New York City, and increase the value of City-financed housing vouchers.** Four in five justice-involved women are primary caretakers of children, but many cannot reunite with them because they cannot secure safe, stable, and affordable housing. The City Council has two pending pieces of legislation that

can change this. Intro 146 increases the value of CityFHEPS vouchers to fair market value and already has a supermajority of council members signed on as sponsors. Intro 2047, the Fair Chance for Housing bill, would make it illegal for landlords to discriminate against these mothers and other justice-involved New Yorkers. We ask that the City Council urgently pass both Intro 146 and Intro 2047.

5. **Develop a coordinated reentry system in New York City to guarantee the safety and success of justice-involved individuals when they return from jail.** The City does not currently have an agency or department that coordinates all of the City's reentry services for individuals leaving City jails, which are currently overseen by multiple City agencies. We believe that the Mayor and City Council should work together to develop a high-level office to provide coordinated and comprehensive reentry services and work intersectionality to address the unique needs of certain groups, such as incarcerated women.

Thank you for providing me with the opportunity to testify today. I would be happy to take any questions.



**Testimony of  
Kristen Edwards, Program Director  
On behalf of  
Women's Community Justice Project  
Before  
The Council of the City of New York  
Joint Hearing of Women and Gender Equity and Criminal Justice Committees:  
Oversight - Women's Experiences in City Jails**

**April 27, 2021**

Good afternoon. My name is Kristen Edwards and I am a licensed social worker and I work for the organization HousingPlus as the Program Director of the Women's Community Justice Project. Thank you to Chairperson Darma Diaz and the Committee on Women and Gender Equity, as well as Chairperson Keith Powers and the Committee on Criminal Justice, for the opportunity to present testimony today regarding women's experiences in City jails.

I. Women's Community Justice Project

For close to 5 years, the Women's Community Justice Project (WCJP) has been providing supportive, transitional housing for women and gender expansive people who have been detained in New York City jails. With funding from the Mayor's Office of Criminal Justice and private foundations, our consortium of four community-based organizations, including HousingPlus, Providence House, Hour Children, and Greenhope Services for Women, has provided housing and supportive services as an alternative to detention for more than 275 women and gender expansive people. We assist our program participants in accessing anything they need to achieve a more stable life, including behavioral health services, employment, family reunification, and affordable permanent housing.

The overwhelming majority of women and gender expansive people we support are survivors of violence and repeated trauma, they are people of color, and they are low income and homeless. Their incarceration not only replicates the dynamics of the abuse and violence they survived, it exacerbates the traumatic effects. Our City jails are not the place for the support and care needed to cope with and heal from pain, but we have seen through our collective work that WCJP and many other community-based organizations can provide that place.

II. City jail conditions

In talking with several WCJP participants who were recently released from the Rose M. Singer Center, their accounts of horrific conditions are heartbreaking but not surprising as we have known about these for decades. Multiple women have described to me in detail the mental abuse they had to endure from officers, including one report of an officer who would repeatedly encourage a woman to end her life while she was jailed. Deprivation and withholding essentials,

such as breakfast to someone who is diabetic, as well as sexual harassment, are typical ways in which many officers exert their power. In addition to the abuse from staff, all women I spoke with have reported enduring constant unsanitary conditions like brown water, flooding, bug and rodent infestations, and sleeping less than 3 feet away from people, even during this pandemic.

Regarding the proposed local law permitting pregnant incarcerated individuals to utilize doula and midwife services in the delivery room:

- We are in full support of access to doula and midwifery services for incarcerated pregnant people; however, we encourage the Council to expand this access to include doula and midwifery services in the prenatal and postpartum period, too. Access to these caregiving relationships throughout a woman's pregnancy and postpartum recovery is critical to a positive and safe birth experience.
- We also urge the council to consider a local law that would facilitate the quick release of pregnant and postpartum people in City jails. The state of Minnesota just passed a law that permits the release of pregnant and postpartum people into community-based programming, much like our programming at WCJP. Each of our sites has expertise in working with pregnant and postpartum women, as well as mothers of minor children. Our project has already had great success and could easily be scaled up to meet a greater need if provided the proper resources.

Regarding the proposed local laws around investigating and documenting sexual crimes:

- We are in full support of training investigators and proper documentation of the investigations; however, we urge the Council to also focus on the prevention of sexual abuse and harassment through adequate supervision and accountability. Abuse and harassment will persist until supervisors and management respect the basic human dignity of the people in their care, demonstrate minimum standards of professionalism, and ensure officer accountability.

### III. The closure of the Rose M. Singer Center before 2027

While immediately addressing the many poor conditions experienced by women in New York City jails is of vital importance, this hearing fails to acknowledge that the Rose M. Singer Center can and should be closed as soon as possible, and much sooner than the plan for 2027. With a current population of about 270, or about 4% of the total individuals jailed at Rikers, and excellent community-based organizations ready and willing to provide support, we have an opportunity - an opportunity to put an end to one of the most miserable, dehumanizing institutions in the City and reimagine a more just, dignified, and safe situation for women and gender expansive people.

Since the Fall of 2020 we have been waiting for the Mayor's Office of Criminal Justice to release an RFP for transitional housing included in the Borough-Based Jail Points of Agreement. According to a concept paper released in August 2020, the City has plans to contract with community-based organizations for 250 transitional beds to begin in FY22, and scale up to 500 beds by FY23. The goal of these beds is to reduce the use of incarceration and "costly stays" in



City jails by providing housing and supportive services. As we await the release of this RFP which seems to get pushed back every two weeks for the past several months, we grow increasingly frustrated learning how much the City is spending to keep people incarcerated, specifically:

- The \$107mm allocated to renovate the Rose M. Singer Center while occupancy in the building is only at about 33%.
- And the more than \$447,000 spent by New York City for each incarcerated individual in FY20, according to an analysis from NYC Comptroller Stringer - a 30 percent increase over the previous year. We echo the recommendation in the report to redirect resources to community programming and treatment. \$447,000 is much more than the cost of purchasing a family apartment in the neighborhoods most impacted by over-policing and mass incarceration.

### VI. Conclusion

WCJP is grateful to the Committees on Women and Gender Equity and Criminal Justice for hosting this important hearing and continuing to call attention to the troubling state of our City's jails. We urge you to look more deeply at putting an end to the miserable jail conditions by closing Rosie's now. Please do not wait until 2027. Thank you for your time and consideration of our comments. We look forward to continuing to discuss these and other issues that impact the people we serve. I can be reached at (917) 215-3880 or [kristen@womenscommunityjustice.org](mailto:kristen@womenscommunityjustice.org).

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## **Testimony of Youth Justice Network**

Before the Committee on Criminal Justice and the Committee on Women and  
Gender Equity  
April 27, 2021

### **Re: Oversight - Women's Experiences in City Jails**

Chair Diaz and Members of the Committee on Women and Gender Equity,  
Chair Powers and Members of the Committee on Criminal Justice

On behalf of Youth Justice Network, I thank the Committee on Criminal Justice and the Committee on Women and Gender Equity for the opportunity to address you. My name is Noá Watford, I'm a Senior Youth Advocate at Youth Justice Network serving young women, trans people, and gender nonbinary people aged 18-24 at the Rose. M Singer Center on Rikers Island.

Founded as Friends of Island Academy in 1990, Youth Justice Network was created by a group of educators, social service staff, and community-based advocates at the alternative high school on Rikers Island — known then as Island Academy.

I met Maritza\*, when she was around 4 months pregnant and incarcerated at Rosie's in the pregnancy ward. She was in good spirits throughout her pregnancy, and despite the stress of her trial and impending court dates, made an effort to engage with programming, her Advocate, and was planning for her and her child's future. As her due date approached, my colleague and Director of The Makeba Project Michelle Cardona and I walked her through the process of the child's birth. She would be driven to hospital, only given a few moments with her baby, and then her child would be taken away.

Her due date arrived, and as expected, she was taken to the hospital for 24 hours to have her baby. When we next saw her, she was a shell of the person we had last spoken to. The Correction Officers on duty informed us she had come back from the hospital, and had been in her bunk for seven days, not showering or eating.

When we finally spoke, Martiza told us: "I only held my baby for a few minutes. Then they took him away, gave me a pad, and told me to get ready to go back to Rosie's. Nobody asked if I was okay. Nobody told me how I could see my baby again."

Throughout my years working inside "Rosie's", I have heard firsthand from the young women the isolation, trauma, and pain they face on a daily basis: cruelty at the hands of Corrections Officers, fear of retribution if they speak out or speak up about living

conditions, empty visiting rooms on Family & Friends days, disappointment after another unanswered phone call.

Young women and young mothers at Rosie's often face a range of gender-specific obstacles, including serious traumatic histories of physical, sexual, and emotional abuse. Each participant we serve has her own individual story of trauma, brutality and struggle for survival. Being pregnant and giving birth in jail is an extremely traumatic, isolating experience— women are removed from family, community, support networks, and eventually prevented from bonding with their child. After giving birth, new mothers are only given a few minutes with their newborn babies before the child is removed from their arms.

Studies have shown that this separation is incredibly harmful for both mothers and children. For babies, separation from a mother at birth can lead to “multifaceted, severe emotional and behavioral problems in later life including low self-esteem, less successful peer relationships, and difficulty coping with life stressors”<sup>1</sup> For mothers, this separation can also be psychologically traumatizing and has been shown to increase the risk of recidivism.”<sup>2</sup>

Rikers Island has nursery facilities where women can nurse and care for babies for up to a year. Women must apply for this privilege. According to DOC documentation, in the last 5 years (2020-2017), 26 women have applied for the nursery, 11 applications have been approved. Only 5 children have been admitted into the nursery over this time period. Anecdotally, in our 15 years working on Rosie's, we have rarely seen the nursery being used. I personally haven't witnessed any young women using the nursery, none of our participants have reported using the nursery, reported knowing anyone who has used the nursery. For the most part, it's locked, and nobody goes in and out of it.

Additional advocacy and support services, leading up to delivery, in the delivery room, and after a woman has given birth would be an important layer of support for women — as well as the continued use of the nursery facilities. In my work with young women at Rosie's, I aim to build relationships of trust, healing, and support, where women are supported safely and consistently. Additional skilled support provided throughout pregnancy and delivery and aftercare would assist women to heal.

All women, regardless of their incarceration or charge, deserve to have a safe, healthy, and dignified pregnancy, delivery, aftercare, and the freedom to bond with their new baby.<sup>3</sup>

\*Name has been changed

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<sup>1</sup> *Mothers Behind Bars*. Washington, DC: National Women's Law Center / The Rebecca Project for Human Rights; 2010. <http://www.nwlc.org/sites/default/files/pdfs/mothersbehindbars2010.pdf>. Accessed August 1, 2013.

Tracy CE. Pregnant inmates—the most forgotten of the forgotten. *Legal Intelligencer*. February 22, 2010. <http://www.law.com/jsp/pa/PubArticlePA.jsp?id=1202443951547&slreturn=20130702154119>. Accessed August 1, 2013.

<sup>2</sup> Margolis KW, Kraft-Stolar T. *When “Free” Means Losing Your Mother: The Collision of Child Welfare and the Incarceration of Women in New York State*. New York, NY: Women in Prison Project of the Correctional Association of New York; 2006. Accessed August 1, 2013.

<sup>3</sup> Shackling and Separation: Motherhood in Prison, Jennifer G. Clarke, MD, MPH and Rachel E. Simon: *Virtual Mentor*. 2013;15(9):779-785. *AMA Journal of Ethics*

I call on the City Council, those running for council positions, the Mayor, mayoral candidates, and anyone running for office in New York City to commit to closing the Rose M. Singer Center before the 2027 deadline.

My issues with the Rose M. Singer Center and the currently incarcerated:

- A large proportion of women currently detained are held on cash bail alone. This is literally criminalizing poverty.
- A large proportion of women currently detained are not getting the medical care that they need and deserve. This is cruel and unusual punishment.
- There has not been a Prison Rape Elimination Act report for Rikers since April 2019. Why are we not complying to PREA?
- The building is not up to code. If RMSC is in such a state of disrepair, why are we holding women pretrial in these unsafe conditions when we can better utilize those funds to provide them housing and services in their communities?

My issues with the new facility:

- Currently the Queens facility which will house women is scheduled to be built last, meaning that women and gender expansive people will be the last to leave Rikers Island.
- It will be in East Elmhurst, far away from where the majority of currently detained people have open cases. This makes visitation difficult for families. Again, this is cruel and unusual punishment.
- The replacement facility should not house more than 100 people. It should be a place of healing and resources rather than punishment.

jonesmero@gmail.com



Kelly Grace Price • co-creator, Close Rosie's • 534 w 187<sup>th</sup> st #7 New York, NY 10033  
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April 27, 2021

**NYC Council Committees on Criminal Justice, Women's' Issues; via email**

**To: Councilwoman Darma Diaz, Chair, Committee on Women's' Issues; Councilman Daniel Dromm, Chair, Committee on Education; Councilman Keith Powers** NYC Chair Committee on Criminal Justice; Councilman Levin, Chair NYC Committee on General Welfare; Councilwoman Helen Rosenthal; Councilwoman Laurie Cumbo; Councilwoman Adrienne Adams; Councilwoman Carlina Rodriguez et al.

**cc:** Committee Council Agatha Mavropoulos; Committee Council Brenda McKinney, Chloe Rivera; Councilwoman Alicka Ampry-Samuel;

**Ref: Intros 1209; 1646; and 1491; Sexual Violence on Rikers; Programming on Rosie's**

Dear Chair Chairs Diaz; Rosenthal; Dromm; Powers; Levin; Committee Members and; Committee Counsel:

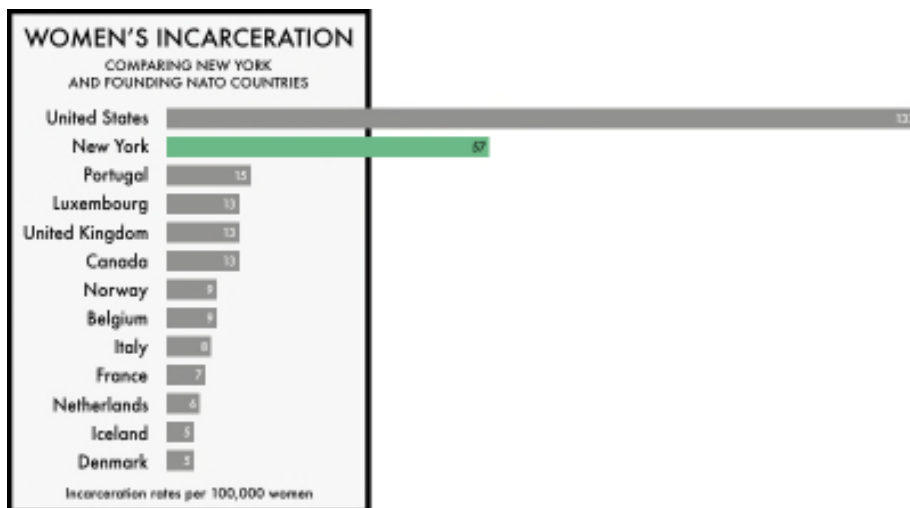
I thank you for holding this hearing and also the other members of the council and staff for allowing me to submit testimony. I am Kelly Grace Price founder of Close Rosie's and:

- I) I ask you to examine the proposed legislation through the lens of what work has already been done IN THE PREA RULE PASSED IN 2016 to mandate a centralized electronic system for investigations of sexual assault (Int 1646) and; to develop a comprehensive training program for investigators of sexual assault in our City Jails (Int 1491 ).
- II) II) I would also like to comment on the status of Local Law 21, nee Intro 933a, which was codified into law by the NYC Council in early 2019 that alleges to mandate reporting on sexual abuse, assault and harassment on Rikers. Because of lack of oversight, these bi-annual reports from the DOC to the City Council have morphed into a thinly veiled opportunity for DOC to publish misleading propaganda that distorts the reality of these out-of-control issues.
- III) III) I would also like to offer limited analysis of the BOC's lack of oversight over PREA implementation;

- IV) IV) External DOC PREA Investigations;
- V) V) Substantiated complaint reporting to NYPD and Borough DA's Offices/Federal Bureau of Justice Statistics and;
- VI) VI) an analysis of (lack of) programming offered on Rosie's.

Before I address the business on the agenda for discussion today I would like to make two brief points:

- NYC sends more women and girls behind bars than any other metropolitan center in the world:  
The US cages 30% of the world's total # of women/girls behind bars.<sup>1</sup>  
New York State cages 13% of the US's total # of women/girls behind bars.



Source: <https://prisonpolicy.org/global/women/2018.html>

NEW YORK CITY IS RESPONSIBLE FOR CAGING ~7% OF ALL WOMEN/GIRLS IN CAGES WORLDWIDE according to this 2006 [@NYSDOCCS](#) report<sup>2</sup> that details that NYC is responsible for sending ~49% of all women/girls in NY State to Prison in NYS.

<sup>1</sup> "Only 4% of the world's female population lives in the U.S., but the U.S. accounts for over 30% of the world's incarcerated women." [Prison Policy Initiative, States of Women's Incarceration: The Global Context 2018](#); [Aleks Kajstura](#) June 2018; <https://www.prisonpolicy.org/global/women/2018.html>

<sup>2</sup> <https://doccs.ny.gov/system/files/d>

**Table 1. Socio-Demographic Characteristics of Inmates Undercustody**

	2005 (N=62,732)				2006 (N=63,304)			
	Men	%	Women	%	Men	%	Women	%
<b>Population (Dec.31)</b>	59,930	96%	2,802	4%	60,445	95%	2,859	5%
<b>Region</b>								
New York City	33,316	56%	1,367	49%	32,576	54%	1,311	46%
Suburban NYC	6,564	11%	298	11%	6,744	11%	305	11%
Upstate Urban	11,318	19%	577	21%	12,366	20%	646	23%
Upstate Other	8,691	15%	554	20%	8,658	14%	591	21%
Missing	41	0%	6	0%	101	0%	6	0%
<b>Age (Average)</b>	36		37		36		37	

**Our leadership needs to operate from a policy platform that will not continue to accept that here in “progressive” New York City we are incarcerating women/girls at a rate greater than any other place on planet Earth.**

- We desperately need help in addressing the behemoth disaster that is MOCJ’s plan to build only one jail for Trans/Intersex/Gender non-conforming, Lesbian and/or women/girls in Queens. We aren’t being given input on decision-making and the one hearing we have had over the past four years was a remedial exercise that wasn’t even complete or sane.<sup>3</sup>

**I. ~~Intros 1209, 1646, and 1491; THIS IS A DRAFT RELEASED EARLY FOR CITY COUNCIL REVIEW PRIOR TO TESTIMONY OF DOC ON 4/27/21; THIS SECTION IS OMITTED INTENTIONALLY; SEE FINAL TESTIMONY FOR FULL COMMENTS ON PROPOSED LEGISLATION to be submitted 4/27/2021~~**

**A. ~~Intro 1209~~**

**B. ~~Intro 1646~~**

**C. ~~Intro 1491~~**

**II. Local Law 21, nee Intro 933a<sup>4</sup>**

**A. QUESTION: Will someone at the DOC fill out the blanks in this table RIGHT NOW PLEASE and get us this data before the end of this hearing that you don’t have to give the Council Committee verbally right now?**

<sup>3</sup> <https://twitter.com/CloseRosies/status/1364313320380125188?s=20>

<sup>4</sup> Local Law 2019/021: A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of correction to report on sexual abuse:

<https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3509899&GUID=6F40B965-79E9-4019-AoDE-1B1FB6FoDAC2>

*Year/Category	PREA Sexual Abuse	PREA Sexual Harassment	Non-PREA	Substantiated	Unsubstantiated	Unfounded	Pending	Investgts Completed	Average # of days to Complete Investigation(s)	Allegations vs Staff	Allegations vs other People Caged	Total DOC Complaints
2007	16	22		0	0	0	38	0		28	10	38
2008	22	30		0	0	0	52	0		39	13	52
2009	11	43		0	0	0	45	0		38	7	45
2010	17	37		0	0	0	37	0		35	19	54
2011	13	98		0	0	0	111	0		87	24	111
2012	28	69		0	0	0	97	0		77	20	97
2013	17	131		0	0	0	105	0		88	31	105
2014	9	107		0	0	0	119	0		71	45	119
2015	70	118		14	0	0	188	0		131	57	188
2016	347	480		3	42	39	739	84		681	275	828
2017	510	641		1	20	18	1112	0		806	663	1151
2018	419	81		1	8	17	474	26		232	183	500
2019												
2020												
2021												
TOTALS												

A. Because of a sly last-minute language change (sneaked-in/allowed by the previous Criminal Justice Committee Counsel) Local Law 21 only mandates reporting on allegations made that were also COMPLETED during the prior six-month reporting period. We don't have a complete picture on the total number of complaints MADE. We need this data now. If you do not have it get it before this hearing is over. We are not leaving without this data today and we need to look into immediately altering the language of this law that basically renders its data null.

B. Questions for DOC ref previous Local Law 2019/021 reports:

1. **QUESTION:** Why does the DOC denote the value "<6" in its reports instead of the actual values of 1-6 as placeholders for data? This unusual and unprecedented practice thwarts accurate reporting and is not allowed for in the language of Local Law 21: we ask for exact number not "<6." The DOC began this practice in its New York City Department of Correction Semi-Annual Sexual Abuse & Harassment Report Bi-Annual Comparison Report January 1st, 2020–June 30th, 2020: "Due to privacy concerns, the Department cannot publicly report any number less than six."<sup>5</sup> But the department does not give

<sup>5</sup> New York City Department of Correction Semi-Annual Sexual Abuse & Harassment Report Bi-Annual Comparison Report January 1st, 2020–June 30th, 2020: pg. 1:

<https://www1.nyc.gov/assets/doc/downloads/pdf/BiAnnualSexualAbuseHarassmentReportFirstHalfofCY2020.pdf>



any legal analysis or rational or present any recent local, state or federal statute that prohibits the DOC from reporting "any number less than six."

Total Alleged Incidents by Facility					
Facility	Jan 2020 - Jun 2020		Jul 2020 - Dec 2020		Percent Change
	Number of Alleged Incidents	Percent of Alleged Incidents	Number of Alleged Incidents	Percent of Alleged Incidents	
AMCC	62	24.32%	30	18.75%	-51.61%
BHFW	<6	--	<6	--	--
BRCTE	<6	--	0	0%	-100%
BRDC	14	5.24%	0	0%	-100%
BRFW	0	0%	0	0%	0%
EMTC	13	4.87%	0	0%	-100%
GMDC	0	0%	0	0%	0%
GPVC	47	17.6%	16	10%	-65.99%
HDC	<6	--	0	0%	-100%
MDC	26	9.74%	81	36.13%	+134.62%
MMCT	0	0%	0	0%	0%
NIC	7	2.82%	14	8.75%	+100%
QDC	25	18.11%	<6	--	--
QDC	0	0%	0	0%	0%
QDCY	<6	--	0	0%	-100%
RMDC	24	8.99%	10	6.25%	-58.33%
RNDC	12	4.87%	0	0%	-100%
SOD	0	0%	0	0%	0%
Transportation Div.	<6	--	0	0%	-100%
VCBC	11	4.11%	22	13.75%	+100%
WF	<6	--	<6	--	--
<b>Total</b>	<b>267</b>	<b>100%</b>	<b>180</b>	<b>100%</b>	<b>-49.07%</b>

- **Follow up QUESTION: Who authorized this arbitrary data reporting protocol (to not report data points with values <6?)**
  - **Follow up QUESTION: What are the actual numbers? Can you provide The City Council with the exact numbers today ?**
  - **Follow up QUESTION: Why don't you keep track of PREA allegations in borough lockups?**
- 2. QUESTION ref Investigative Outcome Notifications: since January 2, 2017 (the local PREA law's implementation date) how many notifications of investigative outcomes [of PREA and non-PREA sexual assault and harassment complaints] has the department made to the survivors who have filed these complaints?**
- In the January 1-June 20, 2020 "Local Law 2019/021 Report"<sup>6</sup> the DOC states: "Investigations initiated prior to November 2018, which account for a number of investigations closed during the first reporting period, are not subject to notification."<sup>7</sup>

<sup>6</sup> Id. pg. 17:

<https://www1.nyc.gov/assets/doc/downloads/pdf/BiAnnualSexualAbuseHarassmentReportFirstHalfofCY2020.pdf>

<sup>7</sup> Id.

- BUT the local PREA standard and the Federal rule read:

**MINIMUM STANDARDS: CHAPTER 5  
ELIMINATION OF SEXUAL ABUSE & SEXUAL HARASSMENT IN CORRECTIONAL FACILITIES  
EFFECTIVE JANUARY 2, 2017**

SECTION	ACTION
5-32 ("Reporting to Inmates")	<ul style="list-style-type: none"> <li>• DOC shall report to inmates about investigations of their allegations of sexual abuse and document such reporting in accordance with the provisions of this section.</li> </ul>
5-33 ("Disciplinary Sanctions for Staff")	<ul style="list-style-type: none"> <li>• Disciplinary sanctions for DOC and CHA staff who engage in sexual abuse or otherwise have violated agency sexual abuse or sexual harassment policies shall be in accordance with the provisions of this section.</li> </ul>
5-34 ("Corrective Action for Contractors and Volunteers")	<ul style="list-style-type: none"> <li>• DOC shall take remedial action with respect to contractors and volunteers who engage in sexual abuse of inmates or otherwise violate DOC's sexual abuse or sexual harassment policies in accordance with the provisions of section</li> </ul>
5-35 ("Disciplinary Sanctions for Inmates")	<ul style="list-style-type: none"> <li>• Inmates determined to have engaged in inmate-on-inmate sexual abuse shall be subject to disciplinary sanctions in accordance with the provisions of this section.</li> </ul>

"Upon completion of an investigation of alleged sexual abuse DOC must inform inmate whether allegation was deemed substantiated, unsubstantiated or unfounded (§ 5-32(a); & Federal PREA Standard § 115.73(a))." [Implementation date = 1/2/2017.]<sup>8</sup>

- **Follow-up QUESTION: How many total complaint outcomes have been established/investigations of PREA and non-PREA complaints completed since Jan 2, 2017 (the PREA implementation date)?**
- **Follow-up QUESTION: Of the number of the above closed complaints, how many total written notifications have been made to individual complainents?**

### III. BOC Oversight of DOC PREA Implementation

#### A. Questions for DOC ref previous BOC PREA reports

##### 1. Ref: Feb 2021 DOC BOC bi-annual PREA report:<sup>9</sup>

- QUESTION: What/Where are the two "Other Units" (see bottom of below chart) listed in the Feb 2021 BOC PREA incident report as sites of sexual assault/harassment?<sup>10</sup> Are these "dry cells" in closed facilities? What other units are there on Rikers? GMDC?**

<sup>8</sup> <https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Rulemaking/2016-PREA/PREA Rules - FINAL FOR POSTING 11.10.16 w certification.pdf>

<sup>9</sup> [https://www1.nyc.gov/assets/doc/downloads/pdf/FINAL\\_Sexual\\_Abuse\\_Second\\_Half\\_CY20.pdf](https://www1.nyc.gov/assets/doc/downloads/pdf/FINAL_Sexual_Abuse_Second_Half_CY20.pdf)

<sup>10</sup> Id. pg. 4

Table 1, below, gives a breakdown of PREA allegations by facility, comparing last reporting period (January 2020 – June 2020) to the current reporting period (July 2020 – December 2020).

**Table 1**

<i>Facility Breakdown Comparison</i>					
	Jan 2020-June 2020		July 2020-Dec 2020		
	# of Allegations	%	# of Allegations	%	% Change
RMSC	15	9.74%	24	8.14%	60% +
AMKC	35	23.18%	63	21.36%	80% +
BKDC	0	0.00%	0	0%	-
GRVC	40	26.49%	30	10.17%	25% -
OBCC	10	6.62%	14	4.75%	40% +
EMTC	1	0.66%	3	1.02%	200% +
MDC	19	12.58%	90	30.51%	374% +
NIC	12	7.95%	31	10.51%	158% +
RNDC	9	5.96%	4	1.36%	56% -
WF	2	1.32%	2	.68%	-
VCBC	8	5.30%	33	11.19%	313% +
BHPW	1	0.66	1	.34%	-
HOJC	0	0.00%	0	0%	-
OTHER UNITS	2	1.32%	0	0%	100% -

**b. QUESTION: Explain this [below] statement:**

"The Department has experienced an increase of PREA allegations in a several facilities [sic]. The overall increase in allegations is explained above; the location of the increased allegations can be traced to the decision to reduce the number of housing areas throughout the facilities, thereby increasing the inmate population."<sup>11</sup>

- **Follow up Question: Where is the data/analysis to back this assertion up?**
- **Follow up Question: The majority of complaints are against staff: so what is the causality between increased detainee population density and increased allegations vs. COs? How do you explain this?**

**c. QUESTION: Substantiation rates. Why so much lower than national averages? RMSC substantiations =1/10 in last report! The national averages are**

<sup>11</sup> Id.

B . Ref: Feb 2020 DOC BOC bi-annual PREA report:<sup>12</sup>

IV. **PREA Investigations pending/completed w external DOC agencies:**

**QUESTION: During the last 2019 hearing ref Rosie's and PREA/Women/Girls/Trans/Intersex/Gender non-conforming people, Councilman Rory Lancman demanded data on how many PREA complaints are reported to the NYPD. DOC Deputy Commish Amanda Townsend promised to provide this data and never did. Do you have this data today?**

In the DOC's latest Bi-annual report to the NYC Council mandated by Local Law 21 of 2019 the dept. repeatedly fails to answer the question ref how many complaints have been investigated by the DOC DOI vs. the NYC DOI: instead the author of the DOC report cagily pretends that the Council isn't asking for this data and doesn't accurately respond:

- **FOLLOW UP QUESTIONS:**
- **How many PREA complaints have been investigated by other agencies?**
- **How many by New York City Department of Investigations (NOT the DOC DOI)?**
- **How many by DAs offices?**
- **How many broken down by year and by type (CPLR)?**
- **and outcome (founded, unfounded, unsubstantiated)?**
- **How many complaints were substantiation and passed to borough DAs to prosecute? How many per year?**
- **Per DAs office?**
- **How many were only prosecuted via OATH hearing?**
- **How many both OATH and DA prosecution?**
- **Do you know the outcomes of these hearings/prosecutions?**

V. **Substantiated Complaint Reporting to NYPD and Borough DA's Offices/Federal Bureau of Justice Statistics:**

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<sup>12</sup> NYC Department of Correction NYC Board of Correction Sexual Abuse and Sexual Harassment Minimum Standards 5-40 Assessment Report –February 2021: [https://www1.nyc.gov/assets/doc/downloads/pdf/Bi-Annual\\_5-40\\_Report\\_February\\_2021.pdf](https://www1.nyc.gov/assets/doc/downloads/pdf/Bi-Annual_5-40_Report_February_2021.pdf)

- On September 6, 2018, the NYC Council held a tri-committee hearing shared by the Justice Systems, Women's Issues and Criminal Justice Committees on PREA implementation in our City Jails. During that hearing DOC Deputy Commissioner Serena Townsend was asked several times by CM Lancman and by CW Rosenthal about reporting sex crimes to the NYPD:

**"COMMITTEES ON CRIMINAL JUSTICE, JUSTICE SYSTEMS & WOMEN 76**

CHAIRPERSON LANCMAN: And my colleague, Council Member Rosenthal, asked about referrals to the Police Department. At what point-- well, you can't be responsible for what the Department of Investigation does, I guess, but at what point does the Department of Corrections, if the allegation is being investigated by the Investigations Division, notify the NYPD that there's an allegation of what in all circumstances would amount to some crime?

DEPUTY COMMISSIONER TOWNSEND: If we do uncover criminality, our liaison is to the Department of Investigation, and sometimes if there's a situation, if it requires a crime team, for example, we will work in conjunction with NYPD. If there's evidence collected, for example, we will establish chain of custody and provide that to the NYPD so that it can then be subsequently vouchered and sent to the Office of the Chief Medical Examiner for their analysis. So in that way we will liaise with the NYPD.

CHAIRPERSON LANCMAN: So, let's drill down on that a little bit. So, give me the Circumstances when the Department will or will not let the NYPD know that an allegation has been made? I mean, does it have to be substantiated first, or-- DEPUTY COMMISSIONER TOWNSEND: [interposing] It does not have to be substantiated.

CHAIRPERSON LANCMAN: Wait, just let me finish.

DEPUTY COMMISSIONER TOWNSEND: Sure.

CHAIRPERSON LANCMAN: Does it have to meet some quantum of evidence that something really did happen or is it defined by the nature of the allegation, like not every allegation of sexual abuse or sexual assault involves forensic evidence or a crime scene, as you put it.

DEPUTY COMMISSIONER TOWNSEND: So, a complaint or a 61 will be prepared for an inmate on inmate allegation of sexual abuse, which is referred obviously to the NYPD. The Department of Investigation, however, is--

CHAIRPERSON LANCMAN: [interposing] Sorry, let me just stop you there.

DEPUTY COMMISSIONER TOWNSEND: Yeah, sure.

CHAIRPERSON LANCMAN: Is there any kind of sexual abuse defined by PREA that does not trigger this form 61, like it has to be some certain level within the-- or some certain level of seriousness?

DEPUTY COMMISSIONER TOWNSEND: Sexual abuse is a crime. So, if it's an inmate on inmate abuse, then there's a 61 generated. Harassment is not a crime.

CHAIRPERSON LANCMAN: Okay. Well, certain kinds of harassment could be.

DEPUTY COMMISSIONER TOWNSEND: Aggravated harassment could be a crime, but verbal harassment is a violation under penal law, not a misdemeanor.

CHAIRPERSON LANCMAN: So, those kinds of verbal harassment would not generate this form 61?

DEPUTY COMMISSIONER TOWNSEND: Correct.

CHAIRPERSON LANCMAN: Okay, so let's keep going. There's a 61 that's been generated.

DEPUTY COMMISSIONER TOWNSEND: Right. And so those situations would, you know, we would involve the NYPD. Now, if there's a crime team, like I said, that needed to be--

CHAIRPERSON LANCMAN: [interposing] Well, wait, let me just stop you. When you say involve, is it the case that every time there is a form 61 which by definition indicates that there's an allegation that a crime was committed--

DEPUTY COMMISSIONER TOWNSEND: [interposing] Yes.

CHAIRPERSON LANCMAN: that the NYPD is notified.

DEPUTY COMMISSIONER TOWNSEND: Yes.

CHAIRPERSON LANCMAN: Every case?

DEPUTY COMMISSIONER TOWNSEND: I will make sure before speaking out of turn, because I want to make, you know,--

CHAIRPERSON LANCMAN: [interposing] At least it's the policy that-- okay, keep going.

DEPUTY COMMISSIONER TOWNSEND: So, are we talking about inmate on inmate sexual abuse cases.

CHAIRPERSON LANCMAN: The cases where the 61 is generated.

DEPUTY COMMISSIONER TOWNSEND: Yes, so those are the cases that we would involve the Police Department.

CHAIRPERSON LANCMAN: Well, those are the cases you would notify the police.

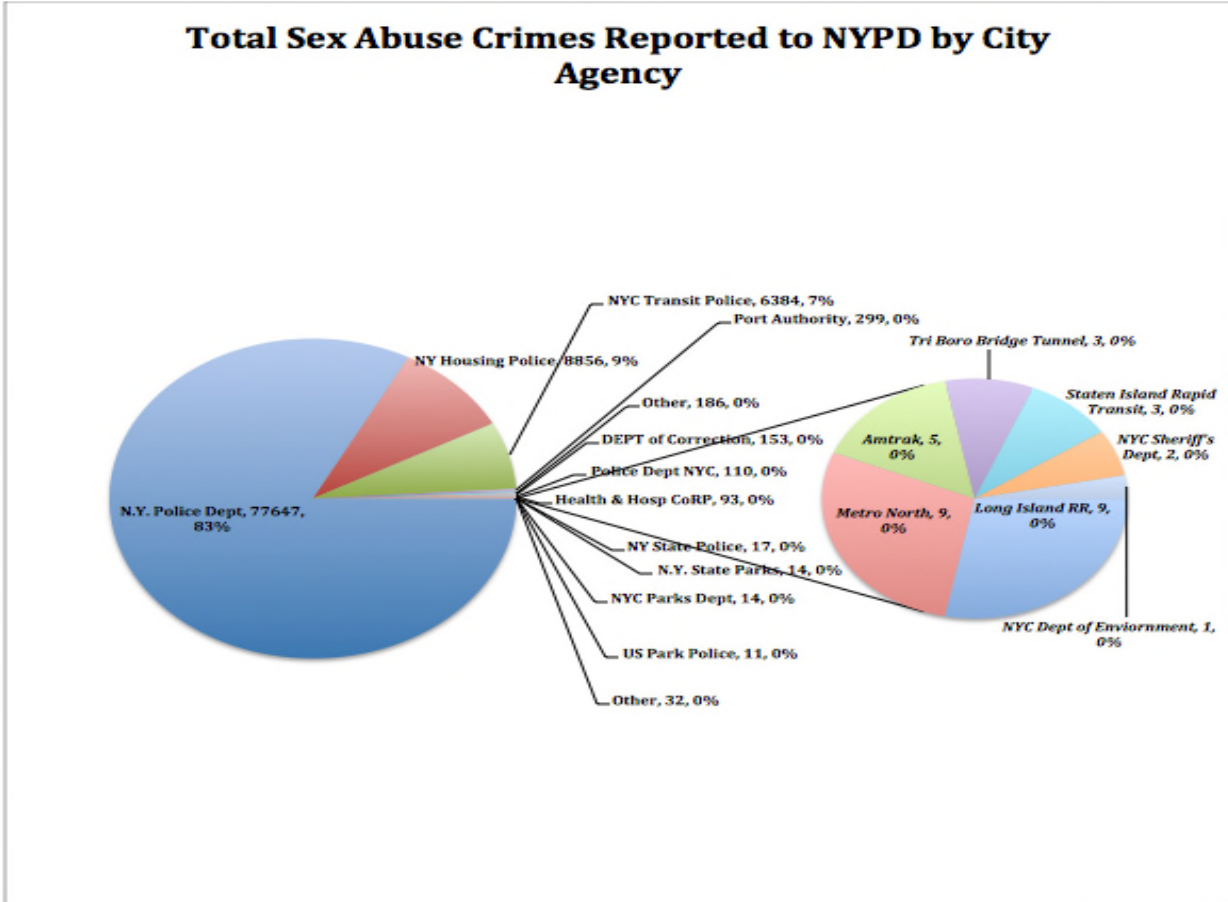
DEPUTY COMMISSIONER TOWNSEND: Correct.

CHAIRPERSON LANCMAN: Right. So, let's talk now about involve, which is a different world."

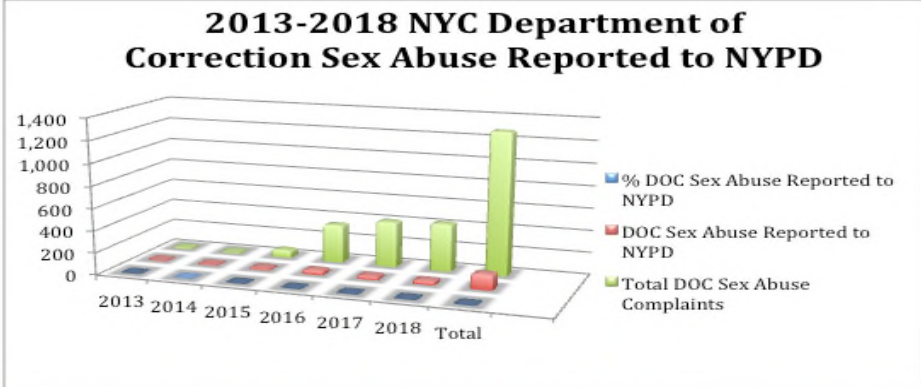
On May 16, 2019, the day before the Memorial Day Holiday Weekend, the NYPD released a deluge of data regarding rape, sex abuse and sexual harassment complaints the agency has gathered/taken since 2006.<sup>13</sup> **According to the data released by the NYPD the NYC Department of Correction has only reported 153 complaints of rape, sexual abuse, sexual assault and or sexual harassment from 2006 to May 2019:**

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<sup>13</sup> NYC OPEN DATA: Rape Data: "This dataset includes all valid felony, misdemeanor, and violation crimes reported to the New York City Police Department (NYPD) for all complete quarters...." The data shared by the NYPD includes a column titled "Jurisdiction Code" that denotes which agency is/was responsible for investigating the allegation of sexual abuse, sexual assault, rape or sexual harassment and then reporting to the NYPD. <https://data.cityofnewyork.us/Public-Safety/Rape-Data/u7ds-4335>



According to the NYC Board of Correction AND the Department of Correction's OWN reporting the data provided to the NYPD by the DOC is inaccurate and represents only 11% of all complaints made to the DOC of rape, sexual assault, sexual harassment or sexual abuse since 2006:



Year	% DOC Sex Abuse Reported to NYPD	DOC Sex Abuse Reported to NYPD	Total DOC Sex Abuse Complaints
2013	38%	5	13
2014	89%	8	9
2015	23%	16	70
2016	12%	41	347
2017	8%	32	415
2018	8%	36	434
Total	11%	138	1288

**QUESTION:** In fact the information that DOC Deputy Commissioner Amanda Townsend shared during the 2018 hearing UNDER OATH in response to CM Lancman's inquiry appears to be more than just a glance misleading. Ms. Townsend specifically mentioned that only inmate-on-inmate [sic] sex crimes are reported to the NYPD: but what about STAFF ON DETAINEE/persons caged sex crimes? How many substantiated sexual abuse complaints are reported to the NYPD/Borough DA's offices each year that are committed by CO's and DOC/ H & H Staff/consultants?

- DOC reports are NOT being on-passed onto the NYPD.
- NYC Open Data reveals that DOC is only reporting 11% of its substantiated sex crimes annually: **What this means is DOC complaints are not making it to BJS so literally our voices are being choked by the DOC--our rapes and sexual assaults aren't even being counted in the Nat'l yearly statistics which are mandated to be fed to [the Bureau of Justice Statistics](#). The Federal Laws mandating crime data that Bureau of Justice Statistics documents fall under: [The Justice Systems Improvement Act of 1979](#); [Public Law 96-157](#) (the 1979 Amendment to the Omnibus Crime Control and Safe Streets Act of 1968) and; [Public Law 90-351](#)**

- A. FOLLOW UP QUESTION:** Is DOC aware that NYC IS IN VIOLATION OF Federal Mandates/ LAWS that require all allegations are reported to the BJS and that the DOC has not been accurately providing data to the NYPD/DA's offices to report to Bureau of Justice Statistics?
- B. FOLLOW UP QUESTION:** It appears that the numbers being reported may only be complaints counted as "PREA" complaints—and that those being demarcated as "not-PREA" are not being included in the numbers. Is this true? Or is it that the DOC only reports inmate-on-inmate sex crimes to the NYPD as per Ms. Townsend's statements in 2018 to the NYC Council? Which is it?
- C. FOLLOW UP QUESTION/Statement:** It also appears that many complaints of sexual violence in our City jails are not being reported



to the to BJS: some federal program dollars for combatting sexual violence are pegged directly to reported rates of sexual violence. So NYC is missing out on \$\$\$\$\$. I encourage the DOC to immediately remediate this failure by submitting correct data and alerting the NYPD and BJS of its previous errors in annual reporting.

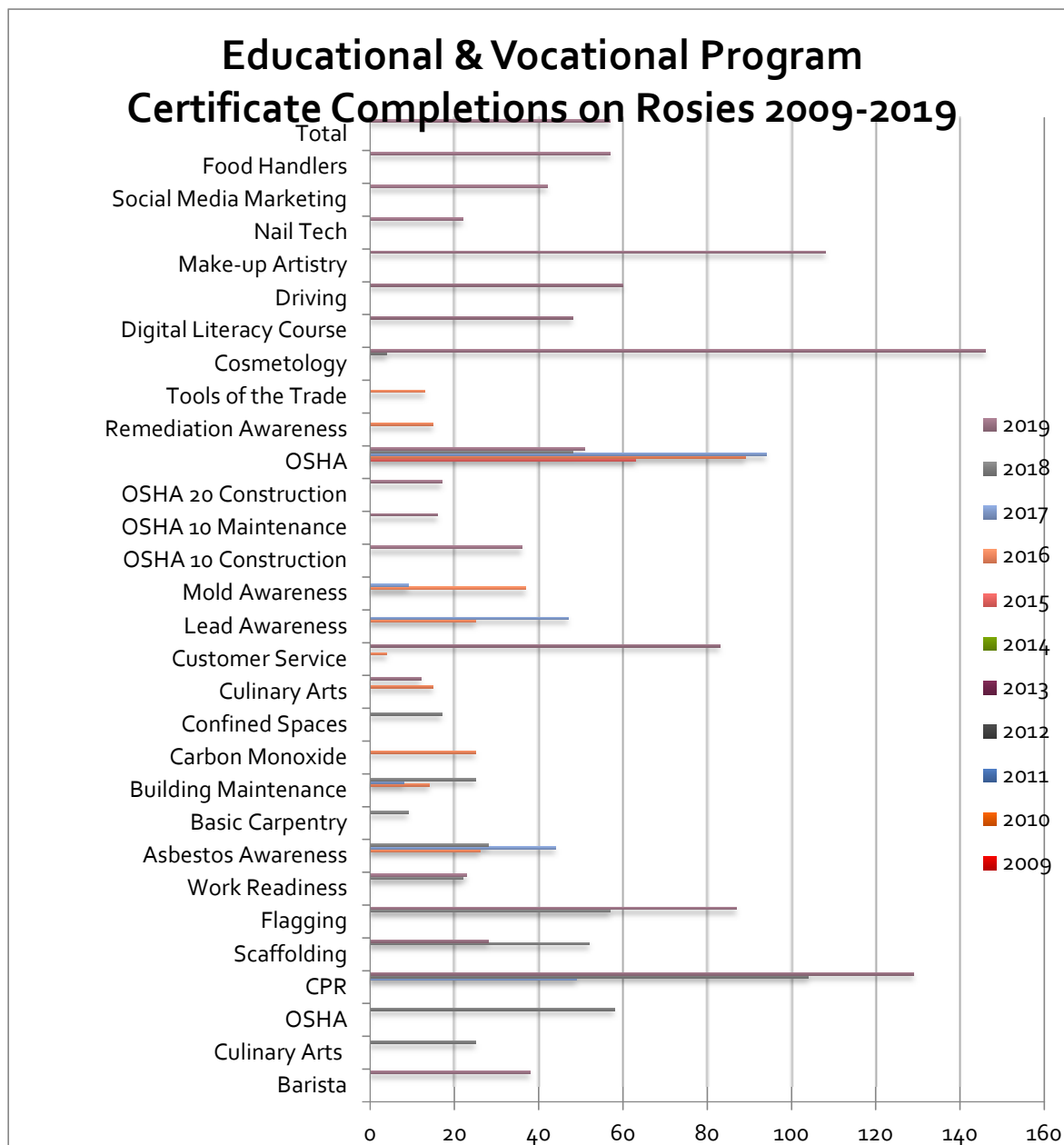
## VI. Programming on Rosie's 2009-2019:

**A. QUESTION: The number of people admitted onto the Rose M Singer Center (aka "Rosie's") over the past ten years who were eventually found guilty or took a plea is 28%. Is programming adequately broad to fit the needs of a population of innocent people (72%)?**

- There were 56,497k total admittances to RSMC over the past ten years (from January 2009 to December 19 2019) inclusive of detained, City-sentenced, parole violees, state prisoners and other women and girls placed on holds.<sup>14</sup>
- Of those 56,497 only 12,762 women, girls, trans, intersex and/or gender non-conforming persons were convicted or took a plea to get off the island.
- FOLLOWING 77.4% of people admitted to the RMSC over the past ten years were INNOCENT: only 22.6 % of women/girls/trans/intersex and gender non-conforming people held on Rosie's were eventually sentenced or took a plea.
- We need to highlight and design programming and access to reading materials workflows to take into consideration the needs of innocent women and girls suffering the traumatic effects of detention/incarceration.
- **FOLLOW UP QUESTION: Currently access to reading materials, tablets and programming are being treated as a reward for good behavior and not a right: and we learned last week that damaged/broken tablets are taken away from users who need them for learning and programming during another CC hearing ref Young Adult educational programming on Rikers and in ACS lock ups. Why are we penalizing this class of innocents already re-victimized by the criminal legal system by limiting programming choices and access to reading materials on a reward-basis only?**
- **FOLLOW UP QUESTION: Even at Rosie's: where people aren't faced with movement from jail-to-jail that is prohibitive of program completion in the other Rikers jails the rate of graduations/certificate completions is abysmally low. Why?**
  - **According to the DOC's own data over the span of a decade from January 1,**

<sup>14</sup> NYC DEPARTMENT OF CORRECTION FOIL Responses, July 6, 2018 and December 19, 2019 by Laura S. Mello, DOC Information Officer. Unless otherwise noted all data is pulled from these same FOIL responses to Close Rosie's.

2009 to December 19, 2019 there were only 1991 programming certificate completions by the women, girls, trans, intersex and gender non-conforming detained/incarcerated on Rosie's out of 56,497 women, girls, lesbian, gay, trans, intersex and gender non-conforming persons caged on Rosie's over the past decade<sup>15</sup>:



<sup>15</sup> Id.

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Barista							0	0	0	0	38
Culinary Arts							0	0	0	25	0
OSHA							0	0	0	58	0
CPR							0	0	49	104	129
Scaffolding							0	0	0	52	28
Flagging							0	0	0	57	87
Work Readiness							0	0	0	22	23
Asbestos Awareness							0	0	26	44	0
Basic Carpentry							0	0	0	9	0
Building Maintenance							0	0	14	8	0
Carbon Monoxide							0	0	25	0	0
Confined Spaces							0	0	0	17	0
Culinary Arts							0	0	15	0	12
Customer Service							0	0	4	0	83
Lead Awareness							0	0	25	47	0
Mold Awareness							0	0	37	9	0
OSHA 10 Construction							0	0	0	0	36
OSHA 10 Maintenance							0	0	0	0	16
OSHA 20 Construction							0	0	0	0	17
OSHA							0	63	89	94	51
Remediation Awareness							0	0	15	0	0
Tools of the Trade							0	0	13	0	0
Cosmetology							0	0	0	4	146
Digital Literacy Course							0	0	0	0	48
Driving							0	0	0	0	60
Make-up Artistry							0	0	0	0	108
Nail Tech							0	0	0	0	22
Social Media Marketing							0	0	0	0	42
Food Handlers						0	0	0	0	0	0
Total						0	0	0	0	0	57
							63	263	251	449	965

- It is unclear if there were ANY certifications completed in Food handling: data is provided about the number of SESSIONS and PARTICIPANTS but not ref COMPLETIONS. Is there not a food preparation/handling certification program?
- Ditto for Horticulture programs
- Follow up QUESTIONS: Programming appears to be very male-centric: what is going on for women?
- Physical fitness, Theatre and Arts Programming is not included in list of programs and certificates—why is this?
- Access-to-Justice, Religious, DV, anti-trafficking education and trauma-healing related programming are not offered? There are programs and curriculums offered by the Crime Victims Treatment Center Directed by Christopher Bromson, co-Chair of the Downstate Coalition vs. Sexual Violence and their curriculum could be a model.
- There doesn't appear to be any sort of programming for mothers of newborns or

- toddlers or pre-natal/Doula programming offered by the DOC—why?
- There doesn't appear to be coping, mental health, physical health-related or support-group/PEER programming offered—why?

<b>Cosmetology- Fearless Beauty</b> <i>(Adult population only)</i>	<b>CY'14</b>	<b>CY'15</b>	<b>CY'16</b>	<b>CY'17</b>	<b>CY'18</b>
Number of Sessions					24
Number of Completions					4
<b>Food Handlers Certifications</b>					
	<b>CY'14</b>	<b>CY'15</b>	<b>CY'16</b>	<b>CY'17</b>	<b>CY'18</b>
Number of Sessions	3	13	10	33	7
Number of Participants <i>(not unique individuals)</i>	69	381	216	302	149
Average Per Session	23	29	22	9	21
Average per Month	54	59	33	46	43

<b>SMART Adult Reentry Program</b> <i># of completions</i>	<b>CY'14</b>	<b>CY'15</b>	<b>CY'16</b>	<b>CY'17</b>	<b>CY'18</b>
Culinary Arts					25
OSHA					58
CPR				49	104
Scaffolding					52
Flagging					57
Work readiness					22
<b>Combined Total</b>				<b>49</b>	<b>318</b>
<b>ICAN Adult Reentry Program</b> <i># of completions</i>					
	<b>CY'14</b>	<b>CY'15</b>	<b>CY'16</b>	<b>CY'17</b>	<b>CY'18</b>
Asbestos Awareness			26	44	28
Basic Carpentry					9
Building Maintenance			14	8	25
Carbon Monoxide			25		
Confined Spaces					17
Culinary Arts			15		
Customer Service			4		
Lead Awareness			25	47	
Mold Awareness			37	9	
OSHA		63	89	94	48
Remediation Awareness			15		
Tools of the Trade			13		
<b>Combined Total</b>		<b>63</b>	<b>263</b>	<b>202</b>	<b>127</b>

Educational Services are under-utilized: according to the DOC's own 12/2018 data:

NYC DOC RMSC Vocational Programs 2014-2018					
<b>DOE Educational Services</b>					
<i>Average Daily Attendance</i>	FY'14	FY'15	FY'16	FY'17	FY'18
Literacy/GED (16-21 only)	20	19	18	13	11
Literacy/GED (22+)	52	14	17	12	13
<b>Total DOE</b>	<b>72</b>	<b>33</b>	<b>35</b>	<b>26</b>	<b>24</b>
<b>Adult Educational Services</b>					
<i>Average Daily Attendance</i>	FY'14	FY'15	FY'16	FY'17	FY'18
Educator's Volunteers (ED'SV)	9	37	26	5	9
Post Secondary Educational Services	4	10		6	3

- **QUESTION:** Are we really getting our money's worth for women & girls on Rosie's? It has cost the city of New York City and us, the taxpayers, ~\$700,000,000<sup>16</sup> dollars to jail women and girls over the past ten years on Rosie's. SEVEN HUNDRED MILLION DOLLARS<sup>17</sup> to detain and incarcerate accused and sentenced women, girls, mothers, daughters, sisters, aunts, nieces and grandmothers and only 1900 managed to eek out program certificates over that same decade? Can we see a line-item breakdown of all program costs on Rikers please?
- Follow up question: Who will be responsible for following up with this data?
- When can we have it by?
- **\*\*\*I suggest we add a line into Local Law 122 that requires the DOC to aggregate reporting on programming by Jail facility and/or gender. Does seem like women and girls are being short-changed programmatically.**

<sup>16</sup> Based on an average cost to cage someone on Rikers of \$325 USD/day: "The average cost of holding an inmate in the city jails has ballooned to more than \$118,000 a year, officials said Thursday. The Independent Budget Office said it costs a whopping \$325 a day to house a single detainee, according to a letter it sent to the City Council." <http://www.nydailynews.com/new-york/nyc-jails-spend-average-118g-year-hold-inmate-article-1.3176311>

<sup>17</sup> Id.

- B. QUESTION:** The data published according to Local Law 122<sup>18</sup> ref: programs provided to women, girls, intersex, gender-nonconforming and trans on Rosie's is not consistent with data provided by recent DOC FOIL (above in point II of this brief).
- The Greenhope, HousingWorks, Horticulture and other programs are omitted from a FOIL response provided in December of 2018 to Close Rosie's. Are these programs no longer offered on Rosie's? Why aren't they demarcated for prior years? The inaccuracies are troubling.
- C. Training for Program Providers—reverting to NIC (National Institute of Corrections) videos to complete training is against both Federal and Local PREA regulations. The guidelines require a robust program to be developed.**
- **QUESTION TRAINING:** Why is the full two-day PREA training required for program volunteers to be cleared by security for Island passes when this is not the same standard required for DOC employees?
  - The NIC video training is not adequate instruction. The "Training" for PREA investigative staff is no more than video instruction courses offered by the NIC<sup>19</sup> according to the BOC's OWN tracking document posted on January 7, 2019<sup>20</sup> Why is the standard higher for volunteers and program staff?

Thank you for allowing Close Rosie's to contribute to this hearing. We look forward to continuing these conversations and to working on the future versions of this legislation with council members and council staff.

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<sup>18</sup> New York City Department of Correction Local Law 122 Report: CY 2017 et al  
[https://www1.nyc.gov/assets/doc/downloads/pdf/LL\\_122\\_2017.pdf](https://www1.nyc.gov/assets/doc/downloads/pdf/LL_122_2017.pdf)

<sup>19</sup> According to the BOC's own tracking document (National Institute for Corrections PREA resource center: <https://nic.learn.com/learncenter.asp?id=178416&page=1-page-nav-courses>: "Investigating Sexual Abuse in a Confinement Setting" 3 DOC PREA REPORTING STATUS FOR 2018 UPDATED"

<sup>20</sup> DOC PREA REPORTING STATUS FOR 2018UPDATED 1/7/2019:  
[https://www1.nyc.gov/assets/boc/downloads/pdf/DOC-PREA-Reporting-Status\\_1\\_7\\_19.pdf](https://www1.nyc.gov/assets/boc/downloads/pdf/DOC-PREA-Reporting-Status_1_7_19.pdf)

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April 27, 2021.

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**Testimony of Planned Parenthood of Greater New York  
Before The New York City Council Committee on Women and Gender Equity**

April 18th, 2021

My name is Elise Benusa and I work at Planned Parenthood of Greater New York (PPGNY) for the Government Relations team in the External Affairs Department. I would like to thank the New York City Council Committee on Women and Gender Equity and the Committee on Criminal Justice Reform for holding this important hearing to discuss the experiences of women while incarcerated. PPGNY is proud to submit testimony in support of Int 1209, Int 1491, and Int 1646.

For more than 100 years, Planned Parenthood of Greater New York has transformed access to reproductive and sexual healthcare, empowering millions to make informed health decisions. Our mission of providing quality, confidential and inclusive health care to all has made Planned Parenthood of Greater New York a trusted provider in communities across New York State. For many, Planned Parenthood of Greater New York serves as a primary provider of care and for some, their only provider. The health and educational services provided by PPGNY's 27 health centers play a crucial role in health care access, and supporting families and communities.

Int 1209-2021 amends the administrative code of New York City to allow incarcerated pregnant women to utilize doula services in the delivery room while in Department of Corrections custody. Doulas give emotional and physical support to mothers during delivery and translate gynecological knowledge throughout their birthing journey. Every person has a right to give birth with dignity, in a safe and supportive environment of their choosing. Doulas and midwives provide high-quality, patient-centered maternity care. Having doulas and midwives assist in the delivery will help reduce maternal mortality, which is unacceptably high in New York City, New York State and across the country, especially among Black women, due to systemic racism. This bill will support the already incredible work of Ancient Song Doula Services that are giving prenatal care to incarcerated women. Currently these services provide prenatal consultation, childbirth education, nutritional support and pain management. This law would allow for doula support to carry into the delivery process which is important for continuity of care. Having an advocate during delivery is especially imperative for women who are in Department of Corrections custody to ensure the needs of the mothers are being met and acknowledged. Enacting more visibility into the delivery room will be beneficial for mothers who are already experiencing childbirth under the traumatic and stressful conditions of incarceration. PPGNY fully supports this amendment to create a safer space for mothers to deliver their babies.



PPGNY has Social Workers on-site to provide counseling to survivors of domestic violence and connects them to other community organizations when needed. Outside of New York City, PPGNY staff participate in the Victim Advocacy Services program to provide counseling and other assistance to sexual assault victims in hospital emergency rooms. PPGNY supports Intro 1491, which would require the commissioner of corrections to create a comprehensive training program to investigate sexual crimes. The training curriculum must be patient-centered, inclusive, trauma-informed and culturally competent. The content should also include referral information on organizations that can provide affordable, quality medical and social services. It is critical for investigators to build and sustain partnerships with these organizations in order to provide a holistic range of services for survivors. This program must be part of a comprehensive and coordinated community response to ensure that survivors are not further traumatized during the investigation and to reduce the risk of poor health outcomes that could potentially result from or worsened by violence.

Lasty, PPGNY supports Intro 1646, which would require the DOC to use an electronic case management system to track sexual abuse investigations. DOC must ensure that any case management system protects the confidentiality of victims and survivors of sexual abuse. Training and protocols must be in place to make sure that only authorized personnel have permission to access this system.

PPGNY recognizes the significance of increasing visibility into the operations at DOC, in an effort to shed light on the safety and healthcare of those in custody. We are thankful for this opportunity to advocate for women's health and we will continue to work with the committee to protect people's wellbeing within DOC. Thank you to the committee for these important measures being taken to increase access to reproductive health.

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*Planned Parenthood of Greater New York (PPGNY) is a leading provider, educator, and advocate of sexual and reproductive health care in New York State. PPGNY offers a wide range of services at its 30 locations across 65% of NYS - including gynecological care; birth control; cancer screenings; pregnancy testing; STI testing and treatment; HIV prevention, testing, and counseling; transgender hormone therapy; and vasectomy. PPGNY is also proud to provide abortion services to anyone who needs compassionate, non-judgmental care. PPGNY is a trusted source of medically-accurate, evidence-based information that allows people to make informed decisions about their health and future. As a voice for reproductive freedom, PPGNY supports legislation and policies that ensure all New Yorkers have access to the full range of reproductive health services and education.*



**TESTIMONY OF:**

**Simone Spirig, LMSW – Jail Services Social Worker**  
*Written with Kelsey DeAvila – Project Director, Jail Services*

***BROOKLYN DEFENDER SERVICES***

**Presented before**  
**The New York City Council Committee on Criminal Justice and**  
**Committee on Women and Gender Equity**

**Oversight Hearing on Women’s Experiences in City Jails**  
**&**  
**Int 1209, Int 1491, Int 1646**

**April 27, 2021**

My name is Simone Spirig and I am the Jail Services Social Worker at Brooklyn Defender Services (BDS). BDS provides comprehensive public defense services to nearly 30,000 people each year, thousands of whom are detained or incarcerated in the City jail system either while fighting their cases or upon conviction of a misdemeanor and a sentence of a year or less. Thank you to the Committees on Criminal Justice and Women and Gender Equity, particularly Chair Powers and Chair Diaz, for the opportunity to address the Council on the experiences of women in NYC jails.

BDS launched Jail Services to protect the rights of our detained clients, monitor conditions of confinement, and hold the Department of Correction (DOC) accountable for the treatment of people in New York City Jails. Through our jail-based programming, we are able to enforce our clients’ right to access to education, return to housing, exercise parental rights, maintain family connections, protect immigration status, and receive re-entry services while incarcerated. Our established presence in New York City jails allows BDS to monitor and document the conditions New Yorkers encounter when incarcerated and advocate for the rights and welfare of our clients and other incarcerated people at a systemic city-wide level.

**The Department Continuously Discredits the Lived Experiences of Women**

Our extensive direct service in the jails has made us acutely aware of the enormous burdens women in New York face when detained and highlight that our city jails continuously fail to provide services to address the multitude of issues that specifically impact women. Most charges that bring women into contact with the criminal legal system are related to histories of trauma, abuse, poverty, and substance use disorders. The women we serve are often criminalized for their attempts to survive and support themselves and their families. When compared to their male peers, incarcerated women are more likely to live with a mental illness or chronic medical conditions; they are more likely to be unemployed or underemployed; they are much more likely to have histories of trauma and to be survivors of sexual and physical abuse; they are more often the primary caretakers of children while in the community; and horrifyingly, they are much more likely to experience sexual abuse while incarcerated.<sup>1</sup> Rather than receiving targeted services and programming to address these serious and wide-ranging issues, incarcerated women frequently experience re-traumatization and endure new traumas while in City jails.

Our testimony is guided by the experiences of women our office represents and will largely focus on the pervasive culture to discredit women for who they are and what they need to feel safe while in the custody of the Department of Correction.

### ***Identity and Need for Safe Housing is Disregarded by the Department***

Despite the Board of Correction's mandate and the Department's policies, transgender people in DOC facilities face often-insurmountable hurdles accessing information about available services and housing. All too often, the very DOC staff responsible for providing these services are the ones who hinder their effectiveness. This problem is particularly pervasive when transgender women seek access to the women's facility, Rose M. Singer Center (RMSC), or about specialty housing units including the Special Consideration Unit (SCU).

#### Ms. A

Like all other people entering DOC custody, Ms. A, a 25-year-old transgender woman, answered extensive, confidential, and sensitive questions during the intake process. Although it presented an emotional burden, Ms. A shared her gender identity, history of sexual abuse, and extensive personal trauma on the PREA intake form. After completing the process, Ms. A expected that the information she provided would be used to provide services and determine the most appropriate housing. However, neither the intake officer nor PREA staff followed up with Ms. A about the housing options or provided information about the SCU. When DOC placed Ms. A in general population in a male facility, despite the fact that she's a transgender woman, she faced relentless harassment from incarcerated males and DOC staff. Shortly thereafter, without explanation, Ms. A was moved to the New Admission House, in a male facility, where she continued to be the target of harassment. In that house, Ms. A encountered a constant flow of new people coming into the unit, making the already traumatic experience even more distressing with Ms. A in a position of constantly navigating people's preconceived notions and her safety.

In the New Admission House she met four other transgender women. They informed Ms. A of the SCU at the women's facility and other options beyond her current house. After considering

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<sup>1</sup> [https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/Women\\_Pathways\\_to\\_Jail.pdf](https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/Women_Pathways_to_Jail.pdf)

her options, Ms. A requested an application for the SCU. Not long after she expressed interest, she met with a PREA Compliance Manager. When Ms. A asked if the SCU would be a better experience, the Compliance Manager responded, “No, it will be worse.”

Our office has grave concerns with how DOC staff, charged with providing people with accurate information so people in custody can make informed decisions, dissuade individuals from even filling out the SCU application. Ms. A took the official’s word and decided to stay in the male New Admission House. Shortly after, Ms. A was physically assaulted in the bathroom where she sustained multiple serious injuries.

### Ms. B

Ms. B is a transgender woman who has been incarcerated in the past and knows of the SCU and steps necessary for the Department to place her in the unit. Despite knowing and following the Department’s procedures, it still took over a month for Ms. B to be placed in the women’s jail.

During arraignment and prior to leaving court for Rikers Island, Ms. B informed DOC staff of her identity and requested placement in the Rose M. Singer Center, specifically the SCU where she knew she would feel the safest. Her pleas were ignored, and she was transferred to a men’s facility on Rikers Island where she was forced to repeat her intake process and explain her identity to staff in the hopes she would be transferred quickly to the women’s jail. This did not happen.

A week into her incarceration, DOC PREA staff finally met with Ms. B to provide her with an application to the SCU, which Ms. B immediately filled out. At least a week passed before Ms. B was informed of the status of her application and that she was approved for a transfer to the SCU at RMSC.

Now over three weeks into her incarceration, Ms. B was still housed in the men’s facility, sleeping in an open dorm. Ms. B endured repeated verbal and sexual harassment from men in her housing unit and DOC staff who refused to use her correct pronouns, including one man who repeatedly followed Ms. B to watch her shower. Ms. B felt unsafe in her housing unit and reported this to her steady officer in the housing unit who discounted the harassment as harmless. After several 311 calls, Ms. B was finally moved to RMSC a month into her incarceration.

Situations like those of Ms. A and Ms. B should not exist, yet they do, and with regularity. It has been our overwhelming experience that DOC staff regularly fails to provide incarcerated transgender women with appropriate and safe housing. For both women, one day in the male facility proved to be unsafe, yet the Department took weeks to respond. The failure of the Department to act quickly and understand the needs of transgender women in their custody has and will continue to have long-term consequences of the trauma endured, and even death.

In numerous cases, DOC makes transphobic assumptions about individuals that directly impact decisions to not house trans women with cis women - such as trans women are more masculine and therefore are inherently more violent than cis women. These biased, unfounded and discriminatory assumptions create an unsafe and unlivable environment for trans women in NYC jails. The decision to place women in men’s jails is not only ethically problematic, it put lives in serious danger.

We call on the City Council to hold the DOC accountable for their failure to protect transgender, gender non-conforming, and intersex people in their custody. We urge the Committees to continue visiting the jail, without giving prior notice to the Department, and speak with women and TGNC people held in the Special Consideration Unit, and throughout the jails, to hear firsthand the experience of people incarcerated in DOC custody.

### *Access to Menstrual Products*

In 2016, the City Council passed legislation requiring the DOC to provide menstrual products to incarcerated people for free. Though the Department is providing pads and tampons at no cost to those in custody, accessing those menstrual hygiene products continues to be a barrier for a number of people. Access to menstrual hygiene products is critical for one's health, however, people who menstruate have shared that the pads and tampons are usually stored in the "bubble," the control room within the housing unit that is locked and not assessable to people in custody. Due to its inaccessibility, people are in the position to request items directly from a correction officer. Some people have said they have to beg officers for more free pads only to be treated with disrespect that make them feel ashamed. Others have reported not wanting to ask at all will find other alternatives, like purchasing from the commissary or having other people ask on their behalf.

#### Ms. C

Because people are required to ask DOC for menstrual products, we have concerns about abuse of power by DOC staff. Products provided for free are often poor quality or low absorbency, requiring women to frequently change their pads or tampons. Staff, however, act as gatekeepers to accessing hygiene products. Ms. C needed several tampons and approached an officer at RMSC with her request. The officer was dismissive and abrasive, saying, "Why do you need so many? No one else asks for this much." Ms. C immediately felt self-conscious and was concerned that if she continued to ask for more products, the officer was going to start denying her requests.

#### Ms. D

For anyone, but especially for people in custody, it can be challenging asking people for menstrual products from authority figures. Ms. D is no exception and feels uncomfortable asking a correction officer for a pad. She has resorted to saving her money to purchase expensive name brand products from the commissary or asking a trusted peer in her unit to ask an officer on her behalf.

The current free menstrual products offered to people in custody are of very poor quality and most of our clients will go to great lengths to purchase name brand pads from the commissary. Our clients report that the free pads are not properly absorbent and thus easily lead to staining of their uniforms. Our office continues to provide direct advocacy with DOC to ensure that all people who menstruate receive as many sanitary pads and tampons as they need, when they need them, without harassment and abuse from correctional officers.

We would like to see the Department provide additional menstrual products that are readily available to people in the community, and that these products be made available in way that allows people to obtain without fear, shame, or embarrassment.

### ***In-Person Visiting is Essential***

Visiting with loved ones and being allowed to touch and hug is crucial in incarcerated people and their loved ones. At the beginning of the COVID-19 pandemic, in-person visiting was suspended and it continues to be suspended a year later with no known plan or effort on behalf of the Department to reopen in-person visiting. The impacts of separation and isolation from support systems is well documented, and during a year where we have all had to take protective measures during this pandemic, including not being with family members have been deeply felt.

A year into the COVID pandemic, New York City has made strides to safely open schools, nursing homes, restaurants, NBA games and even movie theaters to the public. As a society, we recognize the importance of in-person learning, visiting with our parents and grandparents and enjoying the social activities that bring us together, yet we have failed to prioritize the mental health and emotional wellbeing of people in our City jails and their loved ones.

BDS is an active participant in the DOC's Visit Working Group, along with other advocates in the City. For months we have heard the Department claim they are waiting on guidance from DOHMH to safely open in-person visiting but DOC has failed to provide what measures are being taken or even a draft plan for the Visit Working Group to review. We find the Department's lack of transparency and urgency to produce safe in-person visiting plans concerning and call on City Council to hold DOC accountable to prevent the continued delay in safely allowing in-person visiting.

The majority of women in jails across the country are primary caretakers of their children,<sup>2</sup> and NYC jails are no exception. We must acknowledge the deep impact and importance that in-person visiting have on children and their incarcerated parents. City jails can no longer be a separate and isolated conversation as the rest of New York City and State begins to open up.

### **Int 1209**

**BDS supports Int 1209**, which would allow pregnant individuals in DOC custody to access doula and midwife services in the delivery room. We believe this bill could be strengthened by specifying that midwives and doulas who are not employed by DOC, who may have pre-existing relationships with pregnant or newly parenting patients in DOC custody, be allowed to work with incarcerated women in the delivery room. The harms of incarceration are detrimental, and though we strongly support people to have access to chosen midwives and doulas, this City must provide alternatives and resources to ensure no pregnant person is incarcerated in NYC.

### **Int 1491**

**BDS supports Int 1491** requiring the commissioner of correction to develop a comprehensive training program for investigation of sexual crimes and the bill should go further. It is critical

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<sup>2</sup> <https://www.safetyandjusticechallenge.org/wp-content/uploads/2016/08/overlooked-women-in-jails-report-web.pdf>

that *all* DOC investigators are trained in working with, interviewing and supporting victims of sexual crimes. BDS supports the spirit of the bill, however, we are concerned that the bill, as drafted, does not require the Department to use external experts in sexual crimes to develop an evidence-based curriculum and to conduct the training to NYC DOC staff. The current bill would allow DOC staff to conduct the internal training for investigative staff without requiring that the trainer have any level of proficiency in the subject matter. We further believe that the curriculum used by DOC should be made available to the public.

Furthermore, in the Department's February 2021 PREA Report<sup>3</sup> to the BOC, the Department claimed the reason for the high number of PREA complaints is based on a small number of people allegedly making repeated false PREA reports, yet failed to acknowledge the majority of reports were made by other people in custody. Despite the small number of people the Department claims are making false PREA reports, the DOC is choosing to seek criminal prosecution from the District Attorneys. BDS finds the Department's actions offensive and dismissive of the multitude of factors that could be at play, including mental health, safety or Department's own staff failing to accurately report to PREA investigators.<sup>4</sup>

### **Int 1646**

**BDS supports Int 1646 with amendments.** While the current paper case management system used to track sexual abuse investigations within NYC DOC is inadequate, we have concerns about any electronic data collection system that threatens the privacy of people in DOC custody by making their data vulnerable to data mining. The bill, as drafted, codifies an electric case management system to be used without including any limitations or privacy protections built in. BDS welcomes the opportunity to meet with the Committee and bill sponsor Council Member Rosenthal to discuss amendments to the bill that would better protect the privacy and data security of survivors, while centering both algorithmic justice and an anti-racist lens.

### **Conclusion**

Women in DOC custody face numerous obstacles around access to safe housing, access to appropriate healthcare and menstrual products, and access to their children and loved ones. The vast majority of women in City jails are held because they cannot afford bail or on technical parole violations and should not be incarcerated. For years now, our office has joined the voice of people in City jail custody, their loved ones, and advocates to demand transparency from the DOC and CHS on measures being taken to women and TGNC people in custody safe. The Department has consistently failed to implement or enforce policies to allow proper housing, prevent and respond to sexual or physical violence, or ensure appropriate medical treatment of people in custody. In order to keep women safe, the City must work to decarcerate the City jails. Since the summer of 2020, we have seen jail populations continuously rise – today the City has over 5,000 people in custody.

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<sup>3</sup> [https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/DOC-Reports/PREA\\_Bi-Annual\\_Report\\_August\\_2020.pdf](https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/DOC-Reports/PREA_Bi-Annual_Report_August_2020.pdf)

<sup>4</sup> According to a NYT review of DOC's disciplinary records, "From January 2019 to August 2020, 56 percent of the more than 270 correction officers who were disciplined — including a dozen supervisors — lied, misled investigators or filed incomplete or inaccurate reports, the records show." <https://www.nytimes.com/2021/04/26/nyregion/guards-rikers-use-of-force.html>

DOC is riddled with mismanagement, a culture of violence and an unwillingness to change. At their budget hearing, they described a need for increased funding for additional uniformed staff, however DOC has a higher staff to persons-in-custody ratio than anywhere else in the US. Still, the Department fails to transport people to court, legal visits, family visits or emergency healthcare appointments. People are not safe in DOC custody and more staff is not the answer. The NYC Board of Correction (BOC) is tasked with providing essential oversight of the NYC jails, and to do so it must be fully funded. The Board has a responsibility to all people in City jails, their families, loved ones, and the community to ensure transparency and accountability is sought. For the DOC to be held responsible, we must start with transparency and fully funding the Board of Correction. The Board is essential at ensuring the public is made aware of the Department's violations of the BOC Minimum Standards; deaths in custody followed by an investigation; data and statistics related to sexual abuse, investigations, grievances, and the use of restrictive housing to name a few. People in custody and the public depend on the Board of Correction, and without them we fear the City jails will become more isolating, only exacerbating the already known horrors within NYC DOC's correctional facilities.

Additionally, to ensure all people are safe, this Council must push for legislation that would truly end solitary confinement in the NYC jails. Layleen Polanco, a transgender woman, died in DOC custody while in a solitary unit. In order to hold DOC accountable and protect all people, and especially women, the Council should push for legislation that would further the work of survivors and advocates. The Board of Correction's proposed rule on Restrictive Housing will not end solitary confinement, but instead perpetuate the harms of solitary confinement indefinitely under a different name.

We thank the Council for their efforts to bring awareness to the lived experiences of women incarcerated in NYC jails and to hold DOC accountable to ensure all women are safe. For any questions, please reach out to Kelsey DeAvila at [kdeavila@bds.org](mailto:kdeavila@bds.org) or 347.988.0795.





My name is Deb Rigano, I am the Director of Jails and Prisons for Hour Children. Hour Children runs the Family Services and Infant Nursery Program in Bedford Hills Correctional Facility, The Family Services Program in Taconic Correctional Facility and the Visiting and Family Assistance Program at the Rose M. Singer Center on Rikers Island. In addition, we have community-based programs that include transitional housing, a back to work program and supporting women on work release from Edgecombe Correctional Facility. Also, we have had a weekly presence in Rikers, as advocates, for over a decade

Hour Children is a 37-year-old organization, working with incarcerated and formerly incarcerated women and their children. We provide housing, job training, day care, after school and mental health services for both women and children.

I will focus on 3 important points.

Doula Information:

With many years' experience in the Nursery in Bedford Hills, we believe the Doula Program can offer an especially useful supplement to the existing Rikers Nursery Program.

Here are some substantiating facts:

- Doulas are associated with much higher rates of breastfeeding, which is important to short-and long-term health of baby and mother. In infants, rates of upper respiratory and other infections go way down the first year of life when breastfeeding is present.
- When postpartum doulas are present, rates of postpartum physical and emotional complications go down because they are aware of and looking for signs of medical and emotional distress in the days and weeks that follow a birth.
- When a mother has the support of a doula postpartum, rates of postpartum mood disorders either go down or are addressed more quickly.
- Women have the choice to receive Doula services, and this is incredibly important for the women's wellbeing. Women are happier and calmer when they have the necessary support.

Video-Visits:

According to Vera Institute for Justice, research shows that prison visits are vital to the success of incarcerated people, reducing reoffending, facilitating their reentry into the

community, and promoting positive parent-child relationships. Video visits help fill in the gap and complement in person visits, but not replace them. Hour Children passionately believes there is no substitution for in person visiting when it comes to children visiting their parents.

Although it is anticipated that in-person visiting will resume soon, it is important that we remain aware that many children have not seen or touched their mothers in over a year.

Unfortunately, the video-visit scheduling (days and times) is not conducive to many families with school age children or working guardians. Perhaps reconsidering the days and times would make this program more successful. Example: Friday mornings at 11am – most children are in school. There are also some people that do not have access to Wi-Fi. Perhaps a Video-visiting site location with round trip transportation would be helpful. In addition, many families with children in foster care placement are having an incredibly difficult time scheduling video-visit. The current system does not allow for consistent weekly video visits to be scheduled and has resulted in many parents going months without seeing their child.

Rikers and future planning:

As to the issue of separate jails to replace Rikers Island, we agree with much that is in the MOCJ plan and believe smaller jails, carefully designed, and humanely administered, will lead to correcting many of the ills of Rikers. However, we strongly disagree with the proposed site for the women's facility. We appreciate MOCJ's decision to have a single, stand-alone facility for women but urge MOCJ to designate a site other than right next to the men's Queens facility.

A significant issue at Rikers is the entrenched culture of enforcement. It is based on a male, militaristic model that emphasizes command and control. Having a small women's center next to a larger men's jail will inevitably mean the administrative policies of the male facility will dominate just as they do now. We urge recognition of the fact that women are not small men and call on the Council to withhold approval of the site currently planned.

We visualize a women's center which is geographically removed from the men's facilities, with good transportation, managed by a staff who elect to be there and agree to additional training specific to working with women, emphasizing mental health issues and the effects of trauma and their role as mothers.

If we are serious about the goal of helping women return to their families and community possessing better life skills than they exhibited before, we need a site where programs and policies are designed for women and not simply a lesser version of a male facility.

Hour Children, with 37 years of experience in working with families impacted by incarceration, is ready to work with the Council and other City entities to plan for a future facility.

Thank you very much,

Deb Rigano

Director of Jails and Prisons for Hour Children



The Legal Aid Society  
Criminal Defense Practice

Testimony

New York City Council  
Committees on Women and Gender Equity and Criminal Justice  
Women in City Jails

April 27, 2021

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Thank you for the opportunity to testify regarding the experience of women in New York City jails. We submit this testimony on behalf of The Legal Aid Society. We would like to thank the many women whose brave voices directed this testimony. 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 Special Litigation Unit addresses systemic legal issues affecting the rights of Legal Aid's public defense clients. In addition, since its inception 50 years ago, the Prisoners' Rights Project has investigated and remedied unconstitutional and unlawful conditions in the City jails through individual and class action lawsuits and administrative advocacy.

Recognizing the unique and urgent needs of women detained in City jails, The Legal Aid Society created The Women's Pretrial Release Initiative to advocate for the release of women pretrial. The Initiative connects women to community-based services and engages in extensive bail litigation with the goal of securing release and enhancing community supports to address women's overall needs.

The vast majority of women who are incarcerated in City jails have experienced significant trauma prior to their incarceration. The extent to which women in jail report having experienced trauma is startling: 86 percent report having experienced sexual violence in their lifetime, 77 percent report intimate partner violence, and 60 percent report caregiver violence.<sup>1</sup> It is extremely important to note, that for trauma survivors, detention is often (re)traumatizing and replicates the dynamics of domestic violence and abuse.<sup>2</sup> The only sure way to protect women from the compounding trauma of incarceration is to completely limit their exposure to New York City jails.

### **The Effects of COVID-19 on Our Understanding of Women's Experiences**

The COVID-19 pandemic has affected women's overall experiences in City jails in ways we cannot entirely pinpoint at the present time. Notably, communication with

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<sup>1</sup> Elizabeth Swavola, et al., *Overlooked: Women and Jails in an Era of Reform*, Vera Institute of Justice (2016), available at <https://www.vera.org/downloads/publications/overlooked-women-and-jails-report-updated.pdf>.

<sup>2</sup> "Invasive searches, restraints, reading of mail, lack of privacy, arbitrary rules, capricious punishment for imaginary infractions, and the earning of privileges through 'good' behavior all mimic the abusive control of intimate partners or family members that can trigger memories of earlier maltreatment. Avoiding punishment through favor-giving also copies the behavior patterns of exploitative relationships." Jody Raphael, *Freeing Tammy: Women, Drugs, and Incarceration*, 73 (2007).

clients has been severely impacted. Due to the highly contagious nature of COVID-19, in-person visits with clients and court appearances have been significantly limited. Additionally, many clients and attorneys have refrained from speaking freely over the phone, as there were several instances in which privileged conversations with attorneys and clients were recorded by the Department of Correction (“DOC”) and subsequently shared with district attorney’s offices. As a result, the safest and most secure medium has proven to be video conferences, which must often be scheduled one to two weeks in advance. Once scheduled, clients are often brought to the video booths late, leaving little time to discuss matters of substance. As more people become vaccinated and in-person meetings resume with regularity, only then will we be in a position to fully assess and understand the most recent experience of women in City jails.

**Given the scope and severity of issues confronting women in City jails, to fully understand the depth of this experience, the Council should hold individual hearings on the following topics:**

**The Unlawful and Dangerous Transfer of Transgender Women to Male Facilities**

The City Council should hold a hearing dedicated to examining the experiences of transgender women in City jails. Of pressing concern is the unlawful and dangerous transfer of transgender women to male facilities.

In recent years, DOC has made some progress in adopting policies that permit transgender women to be housed in female facilities or in the Special Consideration Unit within the women’s jail, Rose M. Singer Center (RMSC). These changes are not only legally required, but also essential to the safety and well-being of transgender women. Nevertheless, The Legal Aid Society’s LGBTQ+ Unit and the Prisoners’ Rights Project, as well as other advocates, have worked with many women who continue to be unsafely housed in male facilities while in DOC custody. Sadly, but foreseeably, many of these clients are harassed and abused while in male jails.

Specifically, The Legal Aid Society has identified a disturbing trend in housing determinations that threatens the safety of transgender women. A transgender woman may be initially housed consistently with her gender identity, either in the female general population or in the Special Consideration Unit. Unfortunately, however, that placement is conditional. If another person in custody files a complaint against a transgender woman or if she is the subject of discipline, DOC moves her to a male facility. This transfer often occurs prior to initiation of an investigation into the matter

and continues throughout the pendency of that investigation, which can span weeks or even months. In effect, DOC uses transfer to an unsafe housing facility as a method of punishing transgender women for behavioral issues or complaints filed against them – even where those very complaints are motivated by transphobia. In contrast, cisgender women who have complaints filed against them are never penalized by a transfer to a male unit. Through this policy, DOC fails its duty to keep the people in its custody free from harm and exposes transgender women to harassment, assault and sexual abuse.

DOC is well aware that transgender people, particularly transgender women, face extremely high rates of harassment and sexual assault while incarcerated. According to the U.S. National Transgender Discrimination Survey, 20.0% of respondents who had been recently incarcerated reported sexual assault by staff or by other incarcerated people.<sup>3</sup> According to a U.S. Bureau of Justice Statistics report, in 225 state and federal prisons, 358 local jails, and 15 special correctional facilities in 2011–2012, transgender inmates were five times more likely to be sexually assaulted by facility staff than was the general population in jails and prisons, and over nine times more likely to be sexually assaulted by other incarcerated people.<sup>4</sup>

Consistent with this data, many of the women DOC punishes by transferring them to a male facility experience precisely this type of abuse. Some of the recent reports we received of punitive housing practices towards transgender women include:

- Ms. AA was initially placed in general population in RMSC, a female facility. After several weeks, another person detained at the same facility made a claim (as yet unsubstantiated) that Ms. AA had made remarks of a sexual nature to her. Ms. AA was immediately transferred to a male facility, where she has remained for almost two months while the incident is being investigated. She reports feeling severe anxiety over her safety and frequent sexual advances by incarcerated men, and she was recently assaulted by another person in custody.
- Ms. BB was punished for purported misconduct by being transferred from RMSC to a male facility, where she was subsequently sexually assaulted. After being moved back to RMSC after this tragic and wholly preventable event, she was kept in effective solitary confinement for many days, even though she

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<sup>3</sup> Sandy E. James, et al., The Report of the 2015 U.S. Transgender Survey, NAT'L CENTER FOR TRANSGENDER EQUALITY, 119, (Dec. 2016), available at <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>.

<sup>4</sup> 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](https://www.bjs.gov/content/pub/pdf/svpjri1112_st.pdf).

experiences epileptic seizures. She was recently moved to a dormitory setting where she feels safer, but only after significant advocacy on her behalf.

DOC can address any safety concerns it has with regard to transgender women who are disruptive or against whom complaints are filed within female facilities, just as it does with other women. Options include: transfer to another housing unit in the female facility, protective custody in the female facility, and the Special Consideration Unit in the female facility. Singling out transgender women for transfer to male facilities is not only dangerous, but also discriminatory in violation of New York City law and the state and federal constitutions. We urge that DOC be required to provide safe and secure housing for its transgender population, regardless of disciplinary or behavioral issues that arise.

### **Sex Abuse and Harassment**

The City Council should hold a renewed hearing to fully examine the current state of sexual abuse and harassment of women in City jails. At the 2015 City Council hearing Examining the Unique Issues Facing Women In City Jails, and subsequent 2018 hearing on Sexual Abuse and Harassment in City Jails, The Legal Aid Society submitted reports detailing the pervasive culture of sexual assault and harassment, noting the astronomical number of reported incidents were just the tip of the iceberg, as the vast majority of sexual abuse in jails go unreported. This is true for a multitude of reasons, including fear of retaliation and further assaultive behavior, fear of being disbelieved, and the pain of recounting these horrific experiences. The issue of sexual abuse and harassment within City jails persists, as hundreds of allegations continue to be reported each year.

Pursuant to the adopted federal Prison Rape Elimination Act (PREA) standards, the Department of Correction and the Board of Correction are required to report data pertaining to the investigations of all allegations of sexual abuse and harassment.<sup>5</sup> It should be noted that the PREA reports from the past two and half years document a decrease in the number of reported incidents of sexual abuse and harassment. The decrease in reported events correlates in part to the decrease in population of people in custody in City jails. In 2017, the average population in City jails was approximately

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<sup>5</sup> The Prison Rape Elimination Act of 2003 (PREA Public Law 108-79) established federal mandates to identify and prevent prison rape in correctional facilities within the jurisdictions of federal, state, local, and native territories across the United States. In 2012 the US Department of Justice adopted the National Standards to Prevent, Detect, and Respond to Prison Rape (the PREA Standards) effective August 20, 2012. In 2016, the New York City Board of Correction implemented Sexual Abuse and Sexual Harassment Minimum Standards that are mirror many of the PREA Standards.



9,200 people<sup>6</sup> and there were 1151 reports of sexual assault and harassment, of which 806 were allegations of staff on incarcerated person abuse or harassment. In contrast to 2019, where the jail population fell below 6,000 for the first time in decades.<sup>7</sup> The PREA report accounting for 2019 notes a total of 322 reports, of which 147 were allegations of staff on incarcerated person abuse or harassment.

While we hope this decrease in reported numbers correlates to an actual decrease in abuse, we know that women have historically under-reported abuse, which is an ongoing challenge to understanding the magnitude of this crisis. In both the 2019 and 2020 reports, it is noted that DOC has “made strong efforts” to educate incarcerated people about the importance of PREA, with an apparent emphasis on “how false allegations negatively impact PREA reporting”, which DOC specifically attributes to a decrease in allegations made at Rose M. Singer Center. Already fearing potential retaliation and being disbelieved, there is concern that such emphasis on what “negatively impacts PREA reporting” has potentially resulted in women reporting actual abuse and harassment in even lower numbers.

### **Routine Practices and Procedures that Expose Women to Additional Trauma and the Need for Trauma-Informed Services**

Women have high rates of trauma in their histories prior to incarceration; these experiences can include multiple forms of abuse and assault as children and adults. In 2015, we informed Council of the need to increase trauma-informed services for women in City jails and requested a hearing be held to address this issue. To date, such hearing has not been held and the need for gender-specific trauma-informed services persists. Although nonprofit organizations such as STEPS to End Family violence Criminalized Survivors Program and The Women’s Prison Association have a presence within City Jails, women report a continuing need for additional services.

For survivors of sexual assault, domestic violence and other trauma, the very nature of incarceration and routine procedures is often re-traumatizing. The City Council should hold a hearing to further explore the many practices that result in this compounding trauma and to address the ongoing need for trauma-informed services. Below are three examples of how routine practices serve to exacerbate trauma.

#### *Strip Searches*

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<sup>6</sup> Justice Brief Jail: City Sentences 2017, Mayors Office of Criminal Justice, available at [sentenced-factsheet-v13.pdf \(cityofnewyork.us\)](https://www.cityofnewyork.us/sites/default/files/2017-08/sentenced-factsheet-v13.pdf)

<sup>7</sup> The Jail Population in NYC: Under 6,000 in 2020; 3,300 by 2026, Mayor’s Office of Criminal Justice Report, [Rikers-scorecard\\_NovemberDecember-2019.pdf \(cityofnewyork.us\)](https://www.cityofnewyork.us/sites/default/files/2019-11/Rikers-scorecard_NovemberDecember-2019.pdf)

Although strip searches are intended to locate hidden contraband, the practice is invasive, degrading, and further traumatizing to women with a history of sexual abuse. A strip search requires a person to remove clothing to permit a visual inspection of the person's breasts, buttocks, or genitalia. Strip searches are common practice within the city jails. Women have described this practice as triggering, dehumanizing, and terrifying.

### *Punitive Segregation*

Punitive segregation, or placement in isolated confinement, amplifies the harms women experience in prison, including problems maintaining dignity and obtaining hygiene supplies, particularly while menstruating. It also leads to increased vulnerability to all forms of staff abuse and harassment in the less public restrictive housing settings. Placement in restrictive housing undermines contact with all support networks and interrupts treatment and services. For women with serious mental illnesses or other trauma symptoms, restrictive housing can aggravate these symptoms, often escalating into destructive behavior and self-harm efforts.<sup>8</sup>

### *Lock Downs*

Department of Correction policy permits staff to lockdown housing areas and facilities to investigate violent incidents, avoid serious violent incidents, conduct searches for contraband, or restore order. According to DOC policy, during emergency lockdowns people in custody are confined to their cells or dormitory areas; meals are eaten in cells or on beds; all services, television, and phone calls are suspended; and all out-of-house movement is prohibited, with very limited exceptions.<sup>9</sup>

Although lockdown procedures provide for meals to be eaten on beds, locking down units often result in missed meals. Several women described experiences where their housing unit was locked down following an incident and, despite order having been restored in the unit, the meal cart came and went without anyone being served. Many women believed this deprivation of food was further punishment for the behavior of some of the women in the unit. In these instances, women fortunate to have commissary items ate chips and cup noodles to tide them over till morning, while others who did not have those resources reported going to sleep without food. The psychologically abusive aspect of this sort of control cannot be overstated, particularly

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<sup>8</sup> Still Worse Than Second-Class Solitary Confinement of Women in the United States, ACLU (2019) available at [062419-sj-solitaryreportcover.pdf \(aclu.org\)](https://www.aclu.org/document/062419-sj-solitaryreportcover.pdf)

<sup>9</sup> New York City Dep't of Correction, Directive No. 4009 R-B, Lock-In / Lock-Out (REV. 11/17/17) (eff. 12/22/17)

in light of the histories of trauma the vast majority of women have experienced prior to incarceration. Behavior such as this only serves to re-traumatize.

### **Ongoing Concerns about the DOC Nursery**

It is well-settled that separating newborns from their mothers causes harmful physical and emotional changes to the infants.<sup>10</sup> Conversely, keeping mothers and newborns together is critical for the development of a strong bond between mother and child,<sup>11</sup> permitting the formation of secure attachments which translate to better life outcomes for the children. The Nursery also gives incarcerated women an opportunity to breastfeed their babies if they choose to do so; the benefits of breastfeeding are well known.<sup>12</sup> The Legal Aid Society has fought for decades to ensure that mothers and their babies have meaningful access to nurseries in New York jails and prisons—including litigation in both federal and state court<sup>13</sup> that resolved when the Department agreed to create and maintain a Nursery program in compliance with Correction Law Section 611.

The census of the Nursery at RMSC has declined significantly over the past decade. In a letter to the Administration for Children’s Services (“ACS”) in 2014, Hour Children sounded the alarm that “[o]ver the years of our involvement [with the RMSC Nursery,] we have seen the number of mothers and infants in the nursery go from a

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<sup>10</sup> “Neurochemical studies show that disruptions to the attachment process affect the growth and development of the brain, as well as social functioning, aggressiveness, reaction to stress, and risk for substance abuse during adulthood.” M.W. Byrne, et. al., *Maternal Separations During The Reentry Years For 100 Infants Raised in a Prison Nursery*, 50 Family Court Review 77, 87 (2012).

<sup>11</sup> Several studies show that babies who form secure attachments to their mothers have better life outcomes than babies who do not. For example, “the American Psychological Society found that infants who bond securely with their mothers become more self-reliant and have higher self-esteem as toddlers. Later in life, this translates into successful peer relationships and the ability to better cope with life stressors.” Women’s Prison Ass’n, *Mothers, Infants and Imprisonment: A National Look at Prison Nurseries and Community-Based Alternatives* 8-9 (May 2009), <http://www.wpaonline.org/pdf/Mothers%20Infants%20and%20Imprisonment%202009.pdf> (citing Beth Azar, *The Bond Between Mother and Child*, American Psychological Society (September 1995)), <http://www.thelizlibrary.org/liz/APA-Monitor-attachment.html>); see also Anne E. Jbara, *The Price They Pay: Protecting the Mother-Child Relationship Through the Use of Prison Nurseries and Residential Parenting Programs*, 87 Ind. L.J. 1825, 1828 (2012) (discussing the benefits of early bonding)

<sup>12</sup> After examining recent publications and systemic reviews about breastfeeding, the American Academy of Pediatrics found breastfeeding resulted in, among other things, 36% reduced risk of Sudden Infant Death Syndrome, 27% - 42% reduced risk of clinical asthma, 30% reduced risk of type 1 diabetes, 40% reduced risk of type 2 diabetes, 15% - 30% reduced risk of obesity, and 15% - 20% reduced risk of childhood leukemia and lymphoma (depending on type). American Academy of Pediatrics, *Breastfeeding and the Use of Human Milk*, 129 Pediatrics e829-30 (2012), <http://pediatrics.aappublications.org/content/early/2012/02/22/peds.2011-3552.full.pdf>. Moreover, “both short and long-term benefits accrue to mothers who breastfeed.” AAP at e831. Notably, “a large prospective study on child abuse and neglect perpetuated by mothers found, after correcting for potential confounders, that the rate of abuse/neglect was significantly increased for mothers who did not breastfeed as opposed to those who did.” Id. (citing Strathearn L. et al., *Does Breastfeeding Protect Against Substantiated Child Abuse and Neglect? A 15-year Cohort Study*, 123 Pediatrics 483 (2009)).

<sup>13</sup> See *Ryan v. Koch*, 82 Civ. 3632 (PNL) (S.D.N.Y. 1982); *Earth v. Koch*, Index No. 44549/1983 (N.Y. Cnty. 1983).

dozen women to the present count, which is one.” In 2015, we supported the laudable effort by the Council to require reporting on the DOC Nursery so that we might all better understand why the Nursery remains troublingly underutilized. The local law that resulted from those efforts has given us a helpful foundation of public information; we now know, for example, that in years 2016 through 2019, DOC admitted to the Nursery 1, 2, 1, and 2 children respectively.<sup>14</sup> In the reporting period for the 2020 Nursery report, we can see that DOC admitted zero children.<sup>15</sup>

### *Reporting*

The Council must now go further in building on that reporting foundation and helping to make access to the nursery meaningful. The reason why significantly fewer mothers and babies have been able to participate in the Nursery program is not clear. For many years it was due to limitations on admission to the Nursery contained in the City’s Command Level Order, modified only after a mother who was improperly denied Nursery admission prevailed in the Appellate Division, Second Department and the lawsuit was before the Court of Appeals.<sup>16</sup> The reporting currently required does not make clear, for example, how many people in custody are pregnant and *eligible* for the nursery—which is important context for the low numbers of reported applications—nor does it make clear why applications are denied. The Council should require that the Department report this and other data that can provide relevant indicators for the accessibility of the DOC Nursery.

Without knowing the source of the decrease in the Nursery population, the Council, the Board of Correction, the Department, advocates, and others cannot take steps to increase the accessibility of the Nursery.

### *Presumption of Admission*

Among the many potential reasons the Nursery remains underutilized, our office has seen one troubling pattern: DOC does not adequately weigh all of the factors necessary to making admissions decisions. To quote an example: we were contacted in late November 2018 by a woman who was denied application of the Nursery. The basis of the denial in its entirety was “Open ACS Case”—a case that was soon closed

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<sup>14</sup> “Rikers Island Nursery Report,” Statistics and Compliance for the Department of Correction. Available at [https://www1.nyc.gov/assets/doc/downloads/pdf/Nursery\\_Report\\_CY2019.pdf](https://www1.nyc.gov/assets/doc/downloads/pdf/Nursery_Report_CY2019.pdf).

<sup>15</sup> “Rikers Island Nursery Report,” Statistics and Compliance for the Department of Correction. Available at [https://www1.nyc.gov/assets/doc/downloads/pdf/Nursery\\_Report\\_CY2020.pdf](https://www1.nyc.gov/assets/doc/downloads/pdf/Nursery_Report_CY2020.pdf).

<sup>16</sup> See *Matter of Duarte v. City of New York*, 91 A.D.3d 778, 936 N.Y.S.2d 671 (2012) *leave to appeal granted*, 19 N.Y.3d 805, 972 N.E.2d 508 (2012) and *appeal dismissed on other grounds*, 20 N.Y.3d 1067, 986 N.E.2d 436 (2013) (holding that DOC acted arbitrarily and capriciously when it denied a woman in City jail admission to the nursery without assessing whether the child’s welfare would be best served by remaining with its mother).

without any findings of abuse or neglect. When the stakes of a decision are whether or not a mother is separated from her child, this pro forma analysis is appalling. We ask that the Council therefore provide more guidance as to the framework for that decision-making process, including a presumption of admission into the Nursery.

Both the law and human dignity require that separating an incarcerated mother from her newborn should only be done in “exceptional circumstances.” See *Apgar v. Beuter*, 75 Misc. 2d 439, 347 N.Y.S.2d 872 (Sup. Ct. Tioga Cty. 1973). In New York State, both the legislature and the courts have found that a facility may only separate a newborn from her incarcerated birth parent after considering the “best interests” of the child.<sup>17</sup> This history is the foundation upon which RMSC nursery decisions must be made. “The expressed legislative and judicial preference in favor of maintaining this relationship except in extraordinary circumstances”<sup>18</sup> counsels establishing a rebuttable presumption: unless a person in custody opts out, she should be admitted to the nursery unless the Department (in conjunction with ACS) can demonstrate by clear and convincing evidence that it would not be in the child’s best interest to remain with its parent. We would welcome an ongoing conversation with Council Members about how best to orient statutory language to accomplish that purpose.

#### *Due Process*

The decision about whether to separate children from their mothers is one of utmost severity. The process by which a mother is forced to be apart from her newborn should not be similar to the process by which the Department decides whether to allow a person in custody access to commissary. The Council should institute several due process reforms to the Nursery Application process.

First, applicants should be afforded an advocate and other due process protections available to mothers in the community. When potential consequences are this severe and given the Department’s record of inadequately considering Nursery Applications, applicant mothers should have a qualified advocate—especially after DOC has denied their initial applications. When facing the removal of their children in the community, parents have a right to representation.<sup>19</sup> There are myriad other interventions and due process protections available to women in the community, for example, ACS organizes Initial Child Safety Conferences or Elevated Risk Conferences which “bring together all of the parties who have a responsibility and an interest in protecting a

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<sup>17</sup> See Correction Law § 611; *Matter of Duarte* at 778.

<sup>18</sup> *Apgar* at 441.

<sup>19</sup> “Family Court Representation,” NYS Office of Indigent Legal Services. Available at <https://www.ils.ny.gov/content/family-court-representation>.

child and is designed to produce the best decision concerning a child’s safety and placement.”<sup>20</sup> Women in custody should be afforded the same protections and preventative measures to ensure the welfare of their newborns and to avoid disruption of the family bond.

### **The Importance of Doula and Midwifery Services Proposed by Int. 1209-2018**

The Legal Aid Society writes in support of proposed Int. 1209-2018, in relation to permitting pregnant incarcerated individuals in department of correction custody to utilize doula and midwife services in the delivery room. There are stark racial disparities in the rates of maternal and infant mortality in the United States, with BIPOC women at particular risk.<sup>21</sup> This reality underscores the importance of all prenatal and perinatal care for pregnant people in DOC custody, including the availability of continuous labor support such as doulas and midwives. Studies have shown that the presence of such support is associated with improved birth outcomes, lower frequency of medical interventions, and higher Apgar scores for infants.<sup>22</sup> We include additional recommendations below to advance the goals of meaningful access to labor and delivery support for people who give birth in DOC custody.

#### *Differentiating Doulas and Midwives*

First, as Int. 1209-2018 recognizes, a doula and a midwife have different qualifications and perform a different spectrum of services. It is therefore important for any statute to make clear that these service-providers are not interchangeable, and support the person giving birth by ensuring that they can make an educated choice about what provider will be available to them. Int. 1209-2018 should require that people in custody be provided with information about the differences between doula and midwifery services—information developed by professionals qualified to do so—and that the person in custody can choose which type of service-provider, if any, they would prefer.

#### *Notice to People in Custody and Pre-and Post-Labor Services*

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<sup>20</sup> See “Family Team Conference Types,” available at [https://www1.nyc.gov/assets/acs/pdf/providerbulletin/2016/feb17/CWP\\_Family\\_Team\\_Conference\\_Types.pdf](https://www1.nyc.gov/assets/acs/pdf/providerbulletin/2016/feb17/CWP_Family_Team_Conference_Types.pdf). See also “Child Welfare Programs’ Integrated Family Team Conference Policy,” available at <https://www1.nyc.gov/assets/acs/policies/init/2017/B.pdf>.

<sup>21</sup> See Melillo, Gianna, *American Diabetes Association’s 80th Scientific Sessions Racial Disparities Persist in Maternal Morbidity, Mortality, and Infant Health*, Am. J. Manag. Care, available at <https://www.ajmc.com/view/racial-disparities-persist-in-maternal-morbidity-mortality-and-infant-health>.

<sup>22</sup> Meghan A. Bohren *et al.*, *Continuous support for women during childbirth*, Cochrane Database Syst Rev. (2017), available at <https://pubmed.ncbi.nlm.nih.gov/28681500/>.

In order to perform their job functions, doulas and midwives must be able to meet with people in custody prior to the onset of labor and delivery. Absent those pre-labor meetings, service-providers cannot meaningfully advocate and care for people during the birth process. To facilitate access to those services, Int. 1209-2018 should require that people in custody receive notice of their right to receive midwife or doula services during labor and delivery at least 8 weeks prior to their due date, and should set forth that they are entitled to meet with the midwife or doula from whom they have elected to receive care at least 6 weeks prior to their due date. When people enter custody within 6 weeks of their due dates, they should receive notice within 2 days and any such doula or midwife appointment should be scheduled to take place as soon as possible. The bill should also require that people in custody be offered post-labor appointments with their labor support provider—of particular importance for people in custody who are denied access to the nursery and the service-providers therein.

### **Food and Nutrition**

The Council should conduct a hearing to examine the effect of the Rikers Island diet on all incarcerated people, with an emphasis on the effect on women.

Women report that the available food within City jails is high in refined carbohydrates and low in nutrients, the exact opposite of diets medical experts recommend for healthy living. This diet is routinely supplemented by food from commissary, which also lacks nutritional value and is high in carbohydrates, sodium and sugar.

Unfortunately, women report that the food options in commissary consist primarily of highly processed food, including items such as chips, cookies, cup noodles, meat sticks, honey buns, and other items high in sugar and sodium. Without question, this diet has adversely affected the health of many women. Several women report significant weight gains which impact a variety of preexisting health conditions.

Others report high incidents of hemorrhoids amongst themselves and their peers, which they attribute to a diet high in refined carbohydrates.

**The Bronx  
Defenders**

**Redefining  
public  
defense**

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

**April 27, 2021**

**Written Testimony of The Bronx Defenders  
By Dany Greene**

My name is Dany Greene and I am a LGBTQ Defense Project Attorney at The Bronx Defenders (BxD).<sup>1</sup> Thank you for the opportunity to offer testimony on this important matter.

**INTRODUCTION**

Over the past several years, much attention has been paid to the abuse of transgender and gender non-conforming (TGNC) people who are incarcerated and in the custody of the Department of Correction (DOC). Just in the last year many improvements have been made: DOC has made some progress in adopting policies that permit transgender women to be housed in female facilities or in the special consideration unit (SCU) within Rose M. Singer Center (RMSC); DOC hired a Director of LGBTQ Programs, who has been working diligently to repair the harm caused to TGNC incarcerated people and reforming internal operations; the City Council passed Local Law 2019/145 requiring the Board of Correction (BOC) to convene a task force that addresses these issues; and DOC released a new directive addressing the needs of LGBTQ incarcerated people. These have been meaningful steps.

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<sup>1</sup> The Bronx Defenders is a public defender non-profit that is radically transforming how low-income people in the Bronx are represented in the legal system, and, in doing so, is transforming the system itself. Our staff of over 350 includes interdisciplinary teams made up of criminal, civil, immigration, and family defense attorneys, as well as social workers, benefits specialists, legal advocates, parent advocates, investigators, and team administrators, who collaborate to provide holistic advocacy to address the causes and consequences of legal system involvement. Through this integrated team-based structure, we have pioneered a groundbreaking, nationally-recognized model of representation called *holistic defense* that achieves better outcomes for our clients. Each year, we defend more than 20,000 low-income Bronx residents in criminal, civil, child welfare, and immigration cases, and reach thousands more through our community intake, youth mentoring, and outreach programs. Through impact litigation, policy advocacy, and community organizing, we push for systemic reform at the local, state, and national level. We take what we learn from the clients and communities that we serve and launch innovative initiatives designed to bring about real and lasting change.



Nevertheless, BxD’s LGBTQ Defense Project, as well as other advocates across the city, continue to work with many women who are unsafely housed in men’s jail while in DOC custody. Because of the significant limitations on SCU eligibility and the lack of transparency in the acceptance process, many transgender women are still housed in men's jails. Sadly, but foreseeably, many of these clients are harassed and abused while in the male facilities. The following testimony discusses the ways in which the SCU should continue to improve, as well as highlighting the experiences of incarcerated transgender women who are not in the SCU, specifically:

- **Despite the existence of the SCU at RMSC, many transgender women in DOC custody are still housed in men’s jails;**
- **Transgender women are often not accepted into the SCU and are forced into men’s jails; and**
- **Transgender women face a constant risk of being removed from the SCU and placed in men’s jails.**

BxD’s LGBTQ Defense Project is a team of advocates who represent lesbian, gay, bisexual, transgender, and queer (LGBTQ) people in legal matters. The majority of our clients are transgender and gender non-conforming (TGNC) people. Our mission is to provide our clients zealous advocacy and legal and social services, including criminal defense, prisoners rights representation, family defense, immigration defense, and referrals to culturally competent services across the city.<sup>2</sup> The creation of this specialized practice that supports LGBTQ people was driven by the disproportionate criminalization of LGBTQ people both nationally and locally in New York City, especially TGNC people of color. Our testimony today is informed by our representation of LGBTQ people and our experience witnessing their mistreatment in the legal system and NYC jails.

### **I. Despite the Existence of the SCU at RMSC, Many Transgender Women in DOC Custody are Still Housed in Men’s Jails**

While the SCU plays a critical function and is an incredibly important unit for many people, many transgender women in DOC custody are not housed in the SCU. Instead, many of our transgender women clients are housed in male facilities because DOC did not accept them into the SCU; they did not know the SCU was an option; they were discouraged from requesting placement in the SCU by corrections officers; or because they were removed from the SCU. We have also repeatedly seen DOC ignore intake policies designed to avoid these problems. When transgender women enter DOC custody, they are supposed to be sent to RMSC for intake

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<sup>2</sup> Description of LGBTQ Defense Project on The Bronx Defenders’ website: <https://www.bronxdefenders.org/programs/lgbtq-defense-project/>.

and given the option of applying to be housed in the SCU. This, however, does not happen consistently. Many transgender women continue to be sent to men's jails for intake, where they are at high risk of violence and abuse from the moment they step into jail. The experiences of our clients show that the women who are brought to men's jails for intake are regularly not given applications to the SCU and that those who request such applications are strongly discouraged from applying. In our experience, when transgender women are brought to men's facilities for intake, they are more likely to end up being housed in a men's jail.

Whether these women are housed in protective custody, general population, or solitary confinement, they are *all* in men's jails. They are all housed inconsistently with their gender identity and they are all facing an extremely high risk of harassment, violence and sexual assault in such facilities. The experience of our client DM highlights the horrific violence that transgender woman clients face in male facilities. Just this month, DM was attacked by an incarcerated man. The incident began when the man began shouting slurs at her. Soon after, this escalated into the man yanking her hair and punching her repeatedly in the face. This violence resulted in our client losing three teeth and splitting open her chin. She was treated at Bellevue Hospital, where she received 15 stitches. Despite the fact that officers were nearby as this violence escalated, they did not do anything to intervene.

Another client, AL, was punched in the chest and repeatedly kicked by an incarcerated man over Easter weekend. Again, officers were nearby as this violence escalated, but they did not do anything to intervene. As AL stated: "The guards don't do nothin. They are walkin off, leavin their posts... Once they work the 3 shifts they just leave. They're tired. They're killing us in here." The continued failure to house transgender women consistent with their gender identity puts people like DM and AL at constant risk of violence.

## **II. Transgender Women Are Often Not Accepted into the SCU and Are Forced into Men's Jails.**

Another persistent issue is that some of the transgender women we represent who apply to be housed in the SCU are not accepted into the unit. There continues to be a lack of transparency about the process that determines who is accepted into the SCU and who is not. The two most common explanations that the Department has provided for not accepting clients into the SCU are (1) a history of violence and (2) DOC's assertion that they are not actually transgender.

DOC often cites the criminal or disciplinary records of women who they reject from the SCU as a justification. This practice ignores the fact that because of the disproportionate attacks and violence against transgender women, however, they are often placed in a position where they need to defend themselves from violence and are punished for acting in self-defense. For example, if a transgender woman who was previously incarcerated defends herself while being

assaulted by another inmate, she may be the subject of disciplinary action. That disciplinary record, in turn, will likely be used against her in her application to the SCU. This creates a cycle in which DOC's failure to protect people from foreseeable violence and harm not only results in continued violence but prevents people from accessing the resources they need to stay safe.

### **III. Transgender Women Face a Constant Risk of Being Removed from the SCU and Placed in Men's Jails**

DOC has also maintained the practice of removing transgender women from housing consistent with their gender identity as a form of punishment. A transgender woman may be initially housed consistently with her gender identity, either in female general population or in the SCU, but subsequently moved to a men's jail in response a perceived "problem," such as: if a transgender woman files a complaint against another incarcerated person; if another incarcerated person files a complaint against a transgender woman; or if a transgender woman is the subject of discipline. This transfer often occurs prior to initiation of an investigation into the matter -- which is particularly problematic considering that many of the complaints filed against transgender woman by other inmates are motivated by transphobia. This disturbing trend threatens the safety of transgender women, and it shows that DOC considers safe housing for transgender woman to be conditional.

DOC punishes transgender woman for behavioral issues, or even for being a victim of abuse, by transferring them to an unsafe housing facility. This practice is in sharp contrast with DOC's treatment of cisgender woman. Cisgender women who have complaints filed against them or who are victims of violence are never penalized by being transferred to a male facility. Instead, when cisgender women are disruptive or have complaints filed against them, they are transferred to another housing unit within the female facility, placed in protective custody in the female facility, or, in the most serious cases, placed in solitary confinement in the female facility (a form of torture that we hope will be eliminated in the near future). DOC has the means to address concerns regarding transgender women within the female facility, just as they do for cisgender women.

DOC's practice of removing transgender woman from housing consistent with their gender identity knowingly exposes these woman to the rampant harassment, assault and sexual abuse. It is a dangerous and discriminatory practice in violation of New York City law, and the state and federal constitutions. DOC should be required to provide transgender women with safe housing, consistent with gender identity, regardless of whether any behavioral issues arise.

### **CONCLUSION**

BxD recognizes the significant improvements DOC has made in large part due to the efforts of many people and agencies at this hearing, including TGNC advocates, prisoners rights attorneys, City Council Members, the Board of Correction (BOC), and the New York City Commission on Human Rights (CCHR). The City Council, BOC, and CCHR have provided necessary support during times when our most vulnerable TGNC clients were facing unspeakable violence in the custody of DOC, and we thank you for that. However, we would like to acknowledge that much work remains to be done to ensure the safety of all TGNC people in the custody of DOC.

Thank you.