



*As prepared for delivery  
February 3, 2020*

**Testimony before the  
New York City Council  
Committee on Criminal Justice  
Chair, Keith Powers  
By  
Cynthia Brann, Commissioner  
NYC Department of Correction**

**February 3, 2020**

Good Morning, Chair Powers and members of the Committee on Criminal Justice. I am Cynthia Brann, the Commissioner of the New York City Department of Correction (DOC). I am joined today by Chief of Department Hazel Jennings and my Chief of Staff Brenda Cooke. I thank you all for this opportunity to discuss the Department's ongoing efforts to prevent, deescalate and investigate violent and potentially violent incidents in our facilities.

The safety, security, and wellbeing of every person living and working in the Department's facilities is my top priority. Under this Administration, the City has made a critical and necessary investment in jail infrastructure, technology and staff. In the past five years, we have: installed 14,000 cameras ensuring complete camera coverage of our facilities, redefined for our staff what it means to use force and reissued our use of force policy with a clear use of force definition, developed a centralized electronic tracking system to track uses of force and slashings and stabbings, instituted a procedure whereby every use of force across the Department is investigated by the Investigation Division, and trained over 10,000 officers on a revised use of force policy as well as providing them training in deescalation and crisis intervention techniques. As a result, the reporting we have today is more thorough, more detailed, and more accurate than the statistics we were able to produce five years ago, or even three years ago. We are building on these successes by evaluating the trends presented by these comprehensive statistics and making data driven decisions that take a holistic look at the drivers of violence in order to improve overall safety. At the same time, the Department is expanding its culture change efforts to support an agency wide understanding that safe facilities are built upon a foundation of respect, understanding and humanity. While there are no quick fixes, I believe we have positioned ourselves in the best manner possible to address the work ahead.





## Nunez Compliance

This November marked four years since the effective date of the Nunez Consent Judgement. In this time, we have achieved an overall 85% compliance with the consent decree, including areas related to the promulgation of a new use of force directive and corresponding disciplinary guidelines, an anonymous reporting system, and the development and deployment of new training curricula including conflict resolution, crisis intervention, and safe crisis management. This month, the Department continued to build on this work by rolling out the second phase of its transfer of learning use of force training module and continuing valuable training sessions between the Chief of Department and leadership in the facilities.

Despite an overall increase in the total aggregate number of uses of force, the Department has made important progress over the past year. From 2018 to 2019, the combined total of use of force with serious injury and use of force minor injury decreased by 9%. Additionally, 74% of total uses of force in 2019 were classified as UOF C, which means no injury resulted from that use. Further, in 2019, officer intervention to save someone involved in a fight from physical harm remained one of the top two drivers of the overall use of force across the Department. In respect to our safety indicators, the total number of fights between people in custody decreased by 2% from 2018 to 2019, and there has been a 14% reduction in assaults on staff involving serious injury in the same time period.

Using force is a valid component of correctional practice and, as expressed in the monitor's report, force by staff in a correctional setting is at times necessary to maintain order and safety. The mere fact that force was used does not mean staff acted inappropriately. As I have stated, every use of force is now documented. In the context of this hearing, it's also important to note that the use of force is not synonymous with violence. Use of force is defined as any instance where staff use physical intervention to gain compliance, and can include a range of qualifying action from placing a hand on an individuals elbow to guide someone down the hallway who is resisting, even if only passively, to using force to break up a fight. To support safer operations, we must focus not only on the total number of uses of force, but on the force that is avoidable. To that end, within one day of an incident, each use of force is closely scrutinized to evaluate if the force used was a result of something we did, or didn't to do, that caused, contributed, or escalated the circumstances leading up to the use of force, and if, had we acted differently, could the use of force have been avoided all together. When a review determines a use of force is avoidable, action to address the circumstances, including retraining and potentially discipline, is taken immediately. I am proud to say that between January 2019 and December 2019, there has been a 66% reduction in avoidable uses of force across our facilities as a result of this effort. This tells us that staff are improving in their compliance with





operational policies and taking steps to conduct themselves in a way that avoids creating or contributing to circumstances that require the use of force.

The monitor's report makes clear, however, that we still have hard work ahead of us in order to fully achieve the goals of the Consent Judgement and we are not shying away from the work ahead. Since the release of the Eighth Monitor's Report, which covers the period of January through June 2019, the Department has been in close collaboration with the Monitoring team to develop new initiatives and solutions to support safer facilities.

### Culture Change

That said, the core of making our facilities safer must come from an internal shift within this institution. Culture change is not just about changing the way the Department treats people within its custody, but changing the way we treat each other and how we approach our jobs. We have made substantial strides in this effort, including increasing the transparency of our operations, hosting regular meetings with community members and advocates at our offices and with the Board of Correction, and participating in dozens of community based meetings to discuss the future placement and design of our new facilities. In furtherance of our efforts to create a culture based on respect and an appreciation of our shared humanity, staff have also been directed to refer to people in custody using professional, person-forward terminology. In addition, our Training and Development Division has taken on a mission-driven effort to support leadership training at all levels, because we know that if we do not develop the leaders of tomorrow, any progress we make today risks being lost in the future.

In addition, we are continuing to look outward and are gathering advice and information from around the country and around the world in order to truly modernize practice. This Department recently joined criminal justice experts and community leaders on a trip to Norway to learn more about their practices. While not everything we saw in Norway is immediately transferable, this trip was enlightening and has continued to shape the way we are devising solutions to some of our most challenging situations.

Throughout the latter half of last year, the Department was establishing the next phase of its culture change effort, a training program, known as Outward Mindset, which connects facility safety with a human approach to jail management. In January, the entire executive team and facility uniform leadership participated in Outward Mindset training, and DOC academy trainers have been certified to lead these trainings for our staff. This month, the two day Outward Mindset training will be rolled out for all personnel working in one of our jails including uniform staff, non uniform staff, staff from DOC and CHS, program providers, and volunteers. Outward Mindset training promotes the belief that, in most cases, a healthy and



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successful organizational culture can be achieved by embracing principles of understanding, communication, and mutual respect. It instructs and uses credible messengers to prove that everyone in a jail facility is made safer by interacting with each other with an appreciation for the full scope of a person's humanity rather than viewing people as objects. Through the Outward Mindset program, staff will be supported in conducting themselves and engaging with people in custody in a way that minimizes situations that necessitate the use of force, which will in turn create an environment where force as a path towards compliance and safety is needed less frequently. This course has yielded positive results for law enforcement agencies, including the Utah State Department of Correction. We are bringing in this program because it works, it aligns with our goals, and we believe that it will be successful.

Meaningful, sustained culture change is a process we are fully engaged in, but it takes time. We see evidence of culture change every day and that sustains us and encourages us to keep pushing forward. There are no easy answers or quick fixes, but we have put ourselves in the best position possible to tackle challenges head on. This work is critical to the success of our agency and our collective commitment to ensuring a New York City correctional system that matches the values of our great city. By approaching this work together, as public servants, public officials and community members, I know we will be successful in this important mission. I would like to take this opportunity to share a video used in the Outward Mindset training that exemplifies our new approach to safety and compliance, after which my colleagues and I are happy to answer any questions you may have.





NEW YORK CITY  
BOARD OF CORRECTION

Statement before the New York City Council

Committee on Criminal Justice  
Keith Powers, Chair

February 3, 2020  
By Margaret Egan, Executive Director  
New York City Board of Correction

Good afternoon Chair Powers and Members of the Committee on Criminal Justice. I am Margaret Egan, Executive Director of the New York City Board of Correction, the independent oversight agency for the City's correctional facilities.

As you know, our role is to regulate, monitor and inspect the City's jails in support of safer, fairer, smaller, more humane jails. The Board (i) monitors conditions of confinement and compliance with our Minimum Standards, (ii) documents systemic issues of a problematic nature and (iii) informs policy decisions and policy improvement with respect to the City's jails. Since its creation in the 1950s, the Board has been focused on data-driven oversight to provide planning assistance to the Department of Correction ("DOC" or "The Department"). While the Board does not have the power or mandate to manage the operations and services within the jails, it does serve an important role in providing ongoing transparency and accountability.

I recently joined the Board of Correction as the Executive Director and in my view, the Board has an incredibly important role to play in moving the jail system forward, particularly as we plan to move into a borough-based jail system. New buildings alone will not solve the challenges currently faced by the Department. With a focus on data and research, as well as qualitative assessment, the Board's development, oversight and monitoring of thoughtful and progressive standards can assist the Department and the City as it seeks to build a criminal justice system

that reflects the City's values and brings dignity and respect to people held within, working in, or connected to the system.

We are here to discuss unacceptable levels of violence in the jails. There is no one response that will reduce levels of violence in the facilities and the Board is committed to working with the Department and all our partners to identify a broad, strategic approach to creating a safe and humane environment for staff and people in custody. Today I will focus on three of those areas; restrictive housing, serious injury reporting and detection of contraband.

As you know, the Board has been working with the Council, the Department, Correctional Health Services (CHS), COBA, City Hall and many advocacy organizations to develop comprehensive restrictive housing rules. The Department has made great progress in developing alternatives to punitive segregation, particularly eliminating punitive segregation for adolescents and young adults, excluding people with serious mental illness and those with serious physical disabilities, and limiting certain PSEG sentences. We believe that a comprehensive set of rules for disciplinary and non-disciplinary housing options can improve safety for all in the jails.

The proposed draft rules on restrictive housing are based on four core principles:

1. Ensuring that people are held in the least restrictive setting for the least amount of time necessary to ensure their own safety, the safety of staff, the safety of others in custody, and the public.
2. Ensuring that those placed into restrictive housing or restrictive statuses are done so in accordance with due process, and procedural justice principles, including explaining disciplinary rules and sanctions when people are first admitted to custody, imposing proportionate sanctions and applying rules fairly and consistently.
3. Promote the rehabilitation of people in custody and reintegrate them into the community by incentivizing good behavior, allowing people placed in restrictive housing as much out-of-cell and programming time as practical, consistent with safety and security and providing necessary programs and resources.
4. Developing performance measures and regularly reporting outcomes to monitor and track compliance with the rules and core principles.

The Board has held two public hearings, and has solicited feedback from the advocacy community, COBA, the Department, CHS, and the general public. This



period of public comment has now ended and the Board will then seek to finalize these rules.

The Board's reporting work is an important component of its oversight and can also aid the Department and CHS in identifying and working to solve these problems. One example is the Board's work on summarizing data on serious injuries to people in custody and auditing serious injury reports. In January of 2019, the Board released the first public accounting of serious injuries overtime. The report found that the Department reported 81% fewer serious injuries than were diagnosed by CHS.

Following this report, in July of 2019, the Board unanimously approved rules on the prevention, reporting, and investigation of injuries. These rules require the Department and CHS to issue joint, monthly public reports on serious injuries. Both agencies have committed significant resources to develop the reporting protocols. We are now working closely with the Department and CHS to fine tune these protocols and the reports themselves and hope to make those reports public shortly. We believe these reports will be important tools for the Board, Department, CHS, the Council and the public to understand the types, circumstances, and rates of serious injuries occurring in NYC jails and take informed, meaningful steps to address.

Finally, I also want to discuss the Board's reporting around the implementation of body scanners and Separation Status, which is another form of highly restrictive housing. Body scanners are a new security tool that use low-dose ionizing radiation to detect contraband. When someone has a positive scan or refuses to be scanned, the Department concludes the person possesses contraband and places them in Separation Status. We believe that detection of contraband is incredibly important to the safety and management of the jails and the Board fully supports the use of body scanners.

The Board released a report in January evaluating the implementation of the body scanners and the Department's initial use of the scanners and Separation Status. Our findings showed a chaotic rollout of the scanners which included unnecessarily restrictive conditions in Separation Status. In all, the report makes 22 recommendations to the Department and CHS on improvements to body scanner and separation status practice and policy. One critical issue raised in our analysis was the operation of the body scanners by those who had not received the appropriate training. This creates a risk of radiation exposure to staff and people in custody and the potential for misinterpretation in scans. False negatives undermine

the Department's ability to use scanners effectively as a tool to identify contraband while false positives lead to unnecessary placement in Separation Status.

To it's credit, the Department has responded to this training issue and begun to address other findings in the report including referring verified instances of improper scanner operation to the Investigation Division for investigation and discipline, issuing security memorandum reiterating the training requirements, ongoing revisions to their training curriculum, and monthly audits to assess the impact of these efforts moving forward. We look forward to continuing to work with the department to ensure the efficacy of the body scanners and the appropriate use and operation of the Separation Status unit.

Again, these are just a few areas of our focus in addressing the disturbing and complicated issue of violence in the jails. We look forward to continuing to work closely with the Department and CHS on these issues and others to meet the goal that we all seek. To meaningfully reduce the violence in the City's jails.

Thank you for the opportunity to address you. I am now happy to take your questions.





***“JAIL VIOLENCE”***

**COBA LEGISLATIVE CHAIRMAN FREDERIC  
FUSCO’S TESTIMONY BEFORE THE  
COMMITTEE ON CRIMINAL JUSTICE**

**HON. KEITH POWERS  
CHAIRMAN**

**NEW YORK CITY COUNCIL**

**February 3, 2020**

Good morning Chairman Powers and the distinguished members of your committee. My name is Frederick Fusco and I am the Legislative Chairman of the Correction Officers' Benevolent Association, the second-largest law enforcement union in the City of New York, representing over 10,000 active and over 9,500 retired correction officers. Our members, as you know, provide care, custody, and control of over 6,000 inmates daily and over 40,000 inmates in just last year alone.

We are here today to discuss the topic of jail violence in the New York City Department of Correction. This Committee first had an oversight hearing on the issue of safety in DOC facilities back on April 23, 2018. As we expressed in testimony at that hearing and in subsequent testimony, press conferences, reports, and conversations with individual Council Members, we are eager to discuss the most important issue facing the city's jails—safety and security. For the past two years the “Close Rikers” debate has pushed this critical issue aside when in fact this issue should be everyone's immediate priority.

New jails, whenever they are built, will never be safe and secure if the current DOC and BOC policies, which have made our facilities less safe, are permitted to continue. Every indicator on jail violence revealed in the Mayor's Management Report, year after year, has shown a steep increase in jail violence. Most concerning to my members is the 35% increase in assaults on Correction Officers last year over the previous year. There can be no doubt if there was a 35% increase in Use of Forces by Correction Officers, this Council would be in an uproar. In addition, there was a 3% increase in sexual assaults of Correction Officers over the previous year. These figures I'm talking about are not being revealed for the first



time. They have been included in the Mayor's Management Reports; they have been reported to the Council by the DOC and BOC; they have been featured in the press; and they have been repeated time and again by COBA. Sadly, despite years of notice of continual increases in violence, there has been no meaningful effort to stop it and to keep correction officers safe. And while the voices of many members of this body are loud and clear expressing concerns for the safety of inmates, the voices expressing concern for the safety of Correction Officers are much more muted. Correction Officers are concerned with everyone's safety in our jails and so should you.

I want to frame my testimony today by making clear that decreasing jail violence and creating safer jails is not just a question of achieving the correct policy, it's a question of doing what's morally correct as well. In his 2018 State of the City address, Mayor Bill de Blasio referenced the vicious attack that occurred on Correction Officer Jean Souffrant on February 10, 2018. The Mayor said, "We will hold those responsible for this heinous attack fully accountable and we will take the actions necessary to protect our brave Correction Officers who do so much for us. We will not allow our Correction Officers to be assaulted, period."

Yet somehow there was a 35% increase in assaults on Correction Officers last year. So, there's no getting around the fact that jail violence has not decreased because the policies that have been in place have not focused on decreasing jail violence.

So, when you look at the assaults on Correction Officers, the inmate on inmate slashings and stabbings, the 150 splashing incidents last year, and the staggering

number of weapons recovered, even as the number of inmates detained has declined, it is unmistakably clear that our current policies have only accelerated the jail violence we see today.

I am not here to simply describe the problems, I'm here to outline a series of sound policy changes which are precisely what is needed to dramatically reduce the jail violence we face daily.

There are four primary ways to reduce jail violence.

**First-** Disciplinary Sanctions- penalties for inmates when the rules are violated, regardless of their age.

**Second-** The ability to use punitive segregation for inmates who commit violence regardless of their age.

**Third-** Re-arrest inmates who have committed criminal acts while incarcerated in the city's jails.

**Fourth-** Stronger charges issued by the District Attorneys, like gang assault and gang- related violence, and if and when convicted, consecutive sentencing.

Two of the four of the above policies are actually happening. It is obvious that the jails in the surrounding counties already implement recommendations #1 and #2 in order to keep the violence down and the jails safe.

Here are our proposals:

## **COBA PROPOSAL #1**

### **Disciplinary Sanctions on Inmate Privileges**

In an effort to reduce violence while holding inmates accountable for committing crimes and infractions during incarceration, COBA recommends placing disciplinary sanctions upon inmate privileges.

The use of COBA's proposed inmate disciplinary sanctions will serve as a powerful deterrent - the sheer perception to the inmates that it is just not worth it to engage in such activity. If inmate disciplinary sanctions have their desired effect, we can envision a Department with less restrictive housing, greater compliance, fewer injuries to staff and inmates, and a real change in morale and culture. Implementing these disciplinary sanctions may even have an impact on recidivism.

### **Visits**

We must consider that certain aspects of the Board of Correction Minimum Standards and Directive 2007R-C, "Inmate Visit Procedures," effectively work against the Department and its efforts to deter violence and directly puts staff, visitors and members of the public at risk. The Department cannot limit or deny a visit to an inmate or visitor unless the criminal act is committed (or expected to be committed) in conjunction with a visit.

We can only limit or deny a visit if a litany of parameters is met and then there is the appeal process where the Board too often acts as an inmate/visitor advocate rather than an objective entity.

The Board of Correction must relax the constraints put on the Department and permit it to temporarily suspend visits even in cases where the inmate's offending act is not in conjunction with the visit. This type of inmate disciplinary sanction will serve as a powerful deterrent. This will help to send the message that it is just not worth it to engage in acts that violate inmate rules. It may even have an impact on recidivism.

### **Commissary**

Commissary access is a privilege. Immediate sanctions should be enforced to deny commissary access to any inmate who commits any act of violence. Commissary access should be limited to personal hygiene products. Such denial should be extended for violent acts committed during a denial period.

### **Recreation**

Currently, the Board of Correction mandates, "recreation may only be denied only with an open conviction of an infraction for misconduct on the way to, from, or during recreation." This rule is outdated. As a deterrent to violence, the Department needs to have the ability to deny or limit recreation for any violation of inmate rules.

We recommend the Department of Correction have the ability to deny or limit recreation as a disciplinary sanction for violation of inmate rules and regulations.

### **Disciplinary Sanctions for Splashing and Spitting Incidents**

While no crimes against a Correction Officer should be tolerated, particularly egregious and frequent crimes are splashing and spitting incidents. The Board of Correction and the Department of Correction must take these incidents seriously and impose serious deterrence measures like the above proposed inmate



disciplinary sanctions. The Department of Correction needs to be able to sanction an inmate's use of telephone, recreation, visits, law library, and haircuts when an inmate subjects our staff to potential pathogens. Inmates who splash or spit on staff should be denied everything except basic minimum standards for a finite period of time. Only this way will the Department of Correction be able to truly stop the increasing incidents of spitting and splashing.

## **COBA PROPOSAL #2**

### **Restoration of Punitive Segregation in Limited Circumstances**

The City of New York widely publicized its goal of "reforming" the Department of Correction. One of these "reform" measures was to eliminate the use of punitive segregation-a tool widely misrepresented as solitary confinement- for 16-21-year olds. The use of punitive segregation on the adult inmate population over age 21 was also significantly limited.

Many elected leaders complain about how harmful punitive segregation is, yet they turn a blind eye when inmates in our jurisdictions are regularly shipped off to other jurisdictions like Nassau County, Suffolk County, Westchester County, Rockland County and Albany where they are placed in punitive segregation. And those same officials who bemoan the high costs of housing inmates in the city's jails say absolutely nothing about the over \$150 a day that the city pays to those jurisdictions to house an inmate we shipped off to them. The city currently has 35 inmates who have been transferred to other jurisdictions where punitive segregation exists.

The fact of the matter is that the elimination and limitation of punitive segregation has directly led to an increase in violence (As reported in the Mayor's Management Report from 2013 to 2017). The problem is clear: in an unbelievable display of poor management and oversight, both the Department of Correction and Board of Correction eliminated punitive segregation — an effective violence deterrence tool — without a plan to fill the void that was left. The Department of Correction failed to implement any alternate measures that could effectively deter violence and violation of the rules. Programs such as Secured Unit, ESH, the Transitional Restorative Unit (TRU) or Second Chance are void of disciplinary sanctions and fail to address the underlying reason for why an inmate is being placed in such programs or units.

Thus, the Department of Correction's mission to reduce the use of punitive segregation has actually empowered inmates to further commit crimes while incarcerated, because they know that there is no further penalty, accountability, or deterrent to their unlawful behavior beyond being detained in jail or criminally prosecuted.

COBA recommends that the Department of Correction consider reinstating some form of punitive segregation for 19 to 21-year-old inmates in very limited circumstances — against those who commit serious offenses. We recommend this measure be used only when absolutely necessary and for the shortest duration and in the least restrictive manner possible. We also ask that its use be coupled with what we refer to above as “inmate disciplinary sanctions.”

For example, if inmate disciplinary sanctions don't work, then and only then, should punitive segregation be used on inmates 19-21 years of age. Further, if punitive segregation doesn't work, inmates (regardless of age), should be removed from our custody and turned over to the DOH/MH or a separate facility should be created to house them. This facility should be operated by the DOH/MH and other health care professionals with Correction Officers providing security and escort only. (Los Angeles has a model of such a facility).

### **COBA PROPOSAL #3**

#### **Inmate Idleness Reduction**

As an incentive and deterrent, COBA recommends that the Board of Correction consider standards for idleness reduction for inmates. Too often Department of Correction programs come and go with little measurable effect. In fact, the Department of Correction implements many of its programs in a bubble. Further, we understand that the Department of Correction has earned a less than optimal track record for submitting Monthly Management Reports in a timely and accurate manner and has been reluctant to enact measures to truly measure program effectiveness. We urge the City Council to hold the Department of Correction accountable for that.

## **COBA PROPOSAL #4**

### **Other Disciplinary Sanctions**

There are many other disciplinary sanctions such as 1. Being locked in their cells for 4, 6, 8 hours or an entire tour. 2. Receiving a non-contact visits for a specified number of times and other disciplinary sanctions to be explored by all parties involved.

### **Improved Correction Officer Training and Personal Protection Equipment**

In addition to these proposals, Correction Officers need sufficient tools and training to enable us to perform our ever-growing responsibilities and to enhance safety and security. First and foremost, Correction Officers desperately need a new Correction Academy. Even the Federal Monitor cited in his reports that the current academy is not sufficient to provide optimal levels of training. We need a State-of-the Art academy consistent with the training academies that the city provides to other agencies, such as the NYPD. This is an issue that COBA has long pursued, yet it mysteriously disappears from budget negotiations year after year.

Firearms Range Improvements. The NYPD currently has seven ranges at Rodmen's neck. The DOC is currently operating with one range "Adam Range." There are approximately 10,000 Members of Service capable of carrying a firearm. Ten lines need to be budgeted for a support team in order to continuously train current members and recruits. The DOC needs to operate with two ranges to meet the current needs of the agency.



Emergency Service Unit improvements. The 911 system of the DOC is ESU. Our ESU needs a strict training budget to fund drills on a daily basis. Our ESU needs a new facility to accommodate an increase in occupancy needs. Our ESU needs funding to enable the harbor unit to safe guard the perimeter of Rikers Island for security reasons.

Correction Officers also need personalized Gas Masks assigned and fitted for each officer. We need smart phones and tablets just like the Police Department allocates to police officers. These devices can be used for an institutional inmate count, injury reports for inmates and officers, use of force reports, etc. They would help streamline all DOC paperwork and enable us to make important statistics readily available to the Council.

New Riot Gear. We also need new equipment for our response/probe teams and new riot gear in the staging areas. We should have light-weight, state of the art vests, helmets and batons. The equipment we currently have is too heavy and antiquated.

For the past four and half years, we have heard a great deal of rhetoric about jail reform. But if you are going to impose radical jail reform, then that reform must be anchored by a secure system that puts law and order ahead of politics and ahead of ideology with no exceptions. The COBA will not allow Correction Officers to continue to be demonized when those reforms fail. We are not shrinking from our responsibility. In fact, as evidenced by my testimony before you today, we are proposing far more ideas on how to actually make the jails safer than what has proposed for over four years.

We are also asking for shared accountability among all the stakeholders in our criminal justice system. And that means accountability from this Committee and the City Council as well. The question before you is whether your allegiance to your political ideology should trump your obligation to do what is morally correct? What is morally correct is making the jails safer. What is morally correct is protecting Correction Officers and inmates alike and giving us the tools necessary to do just that. What is morally correct is helping us actually reduce jail violence, as opposed to just talking about your concerns about jail violence.

**Testimony to New York City Council,  
From Vidal Guzman, #CLOSErikers campaign leader and JLUSA  
Community Organizer**

February 3rd , 2020

My name is Vidal Guzman and I am a community organizer for the CLOSERikers campaign. I have experienced violence in New York City jails - the Manhattan Tombs and Rikers Island. Violence inside jails is not different from violence in our communities, because people in jail are people from our communities.

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First, as a person who is formerly incarcerated and a former member of the Bloods, I have lived the effects of violence, and seen the ripple effect of violence in my community. I have watched some individuals come home from prison and jails become more violent than when they went in. Instead of blaming them, the real question I ask myself is "What is going on with them? Are we doing enough?" Violence is caused by trauma to those who witness it or live in fear of it.

I live on a block that was beefing with a housing complex a block away from us. This beef kept going for years. Fighting continued between us in jails and prisons. That was until individuals who were in prison took action. They got us to start a program called the Alternatives to Violence Project or AVP; it is an international movement of creative conflict resolution built on affirmation, respect for all, community, cooperation and trust.

They had people incarcerated leading and facilitating the workshops in Greene Correctional Facility. In these workshops I learned about personal growth, community development and creative conflict management. Founded in prison and developed from the real life experiences of detainees, AVP encourages every person to gain the power to positively transform first themselves and then the world we live in. Alternatives to Violence Project brings together diverse groups of people - including active and former gang members working to end the violence.

It is time for us to think differently and try something new in our jails. We have to tackle violence as a health crisis. It is not about exerting power or giving power - it's about creating a blueprint to the path to success. The Jails Action Coalition has developed a Blueprint to End Solitary Confinement, and it could also be called Blueprint to End Violence, because it is a plan to attack violence at the root.

Credible messengers and OGs across the country have worked towards not only stopping violence, but helping young people outside in their community and inside while they are incarcerated becoming mentors for them. In New York, we have Cure Violence programs that have been doing a great job in communities. We already have trained violence interrupters and outreach workers who prevent shootings by identifying and mediating potentially lethal conflicts in the community. We have seen a huge decrease in gun violence but other violence too.

We also know that most people accused of a “violent” act experienced real trauma and violence very often in their own lives. The ‘lines’ people draw between violent/nonviolent, victim/perpetrator are really nonexistent. Those lines only exist so that the people in the system who hold power - police, prosecutors, COs - can exercise their power and control over people they choose to target. We believe everyone must have access to healing and justice - equally.

People who are currently detained or incarcerated need access and leadership opportunities to learn the importance of being a leader while incarcerated and in the community. Successful re-entry begins from the moment someone enters the system. Learning how to participate in advocacy campaigns and learning how laws affect their communities. We have to create individual blueprints for success while people are inside jails, offering space for artistic expression, resources for learning, and other opportunities for youth, adults and their families who are justice involved.





TESTIMONY OF:

**Brooke Menschel  
Civil Rights Counsel  
BROOKLYN DEFENDER SERVICES**

**Presented before  
The New York City Council  
Committee on Criminal Justice  
Oversight Hearing on Violence in City Jails**

**February 3, 2020**

My name is Brooke Menschel. I am the Civil Rights Counsel at Brooklyn Defender Services (“BDS”). I have been engaged in legal advocacy around jail and prison conditions in New York and throughout the Deep South.

BDS provides multi-disciplinary and client-centered criminal, family, and immigration defense, as well as civil legal services, social work support and advocacy, for nearly 30,000 people in Brooklyn every year, thousands of whom are detained or incarcerated in City jails in connection with their criminal cases. We thank the City Council Committee on Criminal Justice, and in particular Chairman Keith Powers for the opportunity to testify about the experiences of the people that we represent who are housed in the City jails, along with the members of the BDS staff who serve them. We also call the Committee’s attention to the Eighth Report (“Report”) filed by the court-appointed monitor in *Nunez v. City of New York et. al*, 11-cv-5845 (LTS), filed this past October, which assess the efforts and progress made by the City and the Department of Corrections (“DOC” or “Department”) to reduce violence in the City’s jails.

Any discussion regarding jail conditions would be incomplete if we did not first address the compulsion toward incarceration rather than community investment in resources that actually improve safety. Pre-trial incarceration, in particular, has long been used as immediate punishment prior to any trial that has served as leverage to extract guilty pleas regardless of culpability. The 2019 bail and discovery reform laws in New York are a critical step to ensuring that, at least in most criminal cases, jails do not serve these improper purposes. Studies show that the vast majority of people released without conditions, or whose bail is paid by a charitable fund, attend all court dates and fulfill all obligations. Pre-trial services, including Supervised

Release and other programs that are well-funded in New York City, are successfully helping ensure that people appear for court without destroying their lives. By contrast, even a relatively short time in jail often derails a person's livelihood, living arrangements, family obligations, and community ties. Nonetheless, the 2019 laws are now under coordinated and direct political attack and require ongoing support from elected officials in all levels of government. The new laws make our City safer, but these critical gains may be lost if we as a community—including more government leaders—do not join together and support the new laws.

Nevertheless, addressing endemic violence in New York City jails will take more than reducing the population. What is required is dramatic culture change that permeates the Department of Correction and a commitment by City leadership to invest in educational systems, healthcare and treatment facilities, local infrastructure, and the fabric of communities that will ensure all New Yorkers have the opportunity to prosper. The stated goal of creating “a jail system that is smaller, safer, and fairer—one consistent with the overall criminal justice system we are building in New York City, in which crime continues to fall, the jail population drops significantly, and all New Yorkers are treated with dignity”<sup>1</sup> is not only appropriate, it is a necessity. Yet it remains aspirational. This is a significant moment in our City's history to address the needs of communities devastated by our criminal legal system and mass incarceration. We can start by taking steps to ensure that the City's jails are not the most violent corners of our community.

### **New York City Jails' Culture of Violence**

Historically, NYC jails, especially those on Rikers Island, have seen astronomical rates of violence. Countless lawsuits, media reports, and investigations have detailed the violence and abuse that seeps into every corridor of the DOC. The “culture of violence” is well documented. In a 2015 statement announcing the *Nunez* agreement, then-U.S. Attorney Preet Bharara noted that the settlement agreement provided a “comprehensive framework [that] requires the City to implement sweeping operational changes to fix a broken system and dismantle a decades-long culture of violence.”<sup>2</sup>

Nearly five years later—thanks to the voices of directly impacted people, pressure from advocates, oversight of the court-appointed *Nunez* monitor, and the commitment of government officials including members of the City Council—there are indications that progress is possible. Nonetheless, the promised reforms and improved culture continue to elude us. The most recent report issued by the *Nunez* monitor described how much further we still have to go:

The conditions that gave rise to the [*Nunez*] Consent Judgment have not abated since the Effective Date. While the pace of reform is not stagnant and the Department has taken several steps to advance the reforms, the Department has not shown itself capable of devising and implementing effective strategies to fully institutionalize the [required reforms]. . . . Simply put, the system is

<sup>1</sup> Mayor's Office of Criminal Justice: <https://criminaljustice.cityofnewyork.us/reports/smaller-safer-fairer-copy/>

<sup>2</sup> Statements of Manhattan U.S. Attorney Preet Bharara and Head of the Civil Rights Division Vanita Gupta on Agreement in Principle Regarding Rikers Island, June 22, 2015, <https://www.justice.gov/usao-sdny/pr/statements-manhattan-us-attorney-preet-bharara-and-head-civil-rights-division-vanita>

overwhelmed. . . . The Department's efforts during the Eighth Monitoring Period did not initiate a change to the troubling conditions that have existed through the time of the Consent Judgment. . . . This cultural dynamic, which is better described as an occupational ideology, runs counter to modern and professional correctional practice. Ultimately, these failures perpetuate the toxic culture of the Facilities discussed in previous reports."<sup>3</sup>

Academic literature and court filings are rife with reasons that the troublesome culture persists. The constant theme is that officers and staff rely heavily on physical force, violence, and other trauma-inducing practices as "tools" to control people in their custody, and those practices foster an environment where violence is not just the norm but in fact the preferred method for addressing conflict. The *Nunez* Report alone identifies a range of training, supervision, and accountability factors that contribute to the deficient culture.<sup>4</sup> Notably, the *Nunez* monitor described staff's inability to manage the people in their charge and a habit of "dehumanizing inmates and exacerbating the use of force via their language, tone, and non-verbal communication."<sup>5</sup> Similarly, the Department and the Correction Officers Benevolent Association ("COBA") adamantly oppose limitations on the use of restrictive housing, claiming time and again that it is the most effective means of maintaining safety, security, and order.<sup>6</sup> Studies consistently conclude that isolation induces irrational anger and diminishes impulse control, leads to violent outbursts, and invokes the very behavior it theoretically aims to discourage.<sup>7</sup> Yet because the Department has relied so heavily for so long on isolation as a means to address violence, it is ill-equipped to prioritize more effective methods of discipline and rehabilitation.

The *Nunez* Report details an increase in the use of force by correctional staff, the highest rate since monitoring began.<sup>8</sup> The Department's efforts to equip staff with de-escalation techniques and compel them to apply their skills have been largely ineffective.<sup>9</sup> Rather than exercising patience, restraint, and common sense, staff too often fuel conflict through belittling name-calling and provocation, then jump at the chance to use violence.<sup>10</sup>

<sup>3</sup> Eighth Report of the *Nunez* Independent Monitor, No. 11-cv-05845-LTS-JCF, Doc. 332, Oct. 28, 2019, 7, 9, 18 ("*Nunez* Report") (page numbers correspond to the Electronic Case Filing page number printed in blue on the top of the page).

<sup>4</sup> *Nunez* Report at 7-9.

<sup>5</sup> *Id.* at 7-8.

<sup>6</sup> See, e.g. Jose Olivares, Despite Scrutiny, Rikers Island's 'Culture of Violence' Persists, Report Says, Nov. 30, 2017, <https://www.npr.org/2017/11/30/559846083/despite-scrutiny-rikers-islands-culture-of-violence-persists-report-says> (quoting COBA president Elias Husamudeen as denouncing the Board for "tak[ing] away our tools" by limiting the use of restrictive housing for young people "giv[ing] us nothing in place for it")

<sup>7</sup> See, e.g., *Solitary Confinement: Common Misconceptions and Emerging Safe Alternatives*, Vera Institute of Justice, May 2015, available at [http://www.vera.org/sites/default/files/resources/downloads/solitary-confinement-misconceptions-safe-alternatives-report\\_1.pdf](http://www.vera.org/sites/default/files/resources/downloads/solitary-confinement-misconceptions-safe-alternatives-report_1.pdf). ("Subjecting incarcerated people to the severe conditions of segregated housing and treating them as the 'worst of the worst' can lead them to become more, not less, violent.").

<sup>8</sup> *Nunez* Report at 7.

<sup>9</sup> *Id.* at 11-12.

<sup>10</sup> Cf. generally *Nunez* Report.

The frequent and persistent reports from people we represent that staff use pepper spray indiscriminately and without provocation are just one example of this troubling trend. In response to a verbal disagreement with one young person BDS represented, an officer became enraged and took out her pepper spray. When the young man fled the area, the officer unleashed the pepper spray and changes the young man through the mess hall, dousing everyone else in the area. The pepper spray triggered a severe asthma attack which left the young man coughing up blood. He was taken to intake where he waited several hours before receiving medical care. All in response to a verbal disagreement.

More challenging to quantify than any use of force by staff, but arguably more disturbing, is the frequent reports that we receive that staff are complicit in, encourage, and facilitate gang violence. In a recent incident, an officer threatened to move one man into a unit housing rival gang members following a verbal argument. Indeed, shortly after the man was moved, he encountered approximately seven members of a rival gang. Predictably, he was attacked and suffered two deep cuts on his face, requiring several stitches.

### **Treating People with Humanity Would Reduce Violence**

Beyond the most serious cases of physical brutality, stemming the tide of violence in City jails requires addressing the myriad humiliations people endure on a daily basis. As the *Nunez* monitor recognized, “language, tone, and non-verbal communication” can all exacerbate violence.<sup>11</sup> Structural and individual cruelties contribute to an environment rife with tension. For example, most young people are limited to visits devoid of meaningful physical contact—separated by a wide table and plexiglass barrier. Ostensibly a security measure, the separation of young people in crisis from a parent’s loving touch breeds deep resentment and fuels anger. To make matters worse, conversations during visits are often dominated by the humiliating ordeal visitors endure to get through “security procedures” prior to seeing their loved ones.

Other everyday cruelties include officers tightening handcuffs to the point that hands lose their feeling, then twisting the wrists to cause shooting pain while uttering threats of further violence. In restrictive housing and similar high-security units, people rely on officers for their most basic needs. When officers take it upon themselves, which we understand happens regularly, to deprive people of toilet paper, food, showers, recreation, or other human necessities as unofficial retribution for disfavored conduct, people become desperate. That desperation predictably leads to further misbehavior, for which they often suffer further unofficial punishment. As a result, some people turn to gangs for access to basic amenities and, fundamentally, for survival. And in turn, the cycle of violence and isolation becomes more entrenched and more difficult to dismantle.

We cannot reduce violence in the City’s jails or among incarcerated people without first addressing the ways staff practices fuel the broader culture of violence. So long as humiliation remains a celebrated tactic and gangs are manipulated to control or intimidate, violence will remain unabated.

### **Lack of Adequate Supervision and Accountability Mask Abuse and Compound Problems**

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<sup>11</sup> *Nunez* Report at 8.



The Department's promotion, supervision, and investigation practices only reinforce the conclusion that uniformed staff are permitted to brutalize the people in their care with impunity. A major shift in Department culture can only happen when supervisors and management respect the basic human dignity of the people in their care, demonstrate a baseline of professionalism, and ensure accountability among the rank and file. Sadly, this is far from the case right now. The Department's long-standing and consistent failure to meaningfully investigate and hold officers accountable for brutality and misconduct has led to leadership that itself practices—and at the very least condones—those very same abusive tactics.

Visiting the jails, it is far too common to hear supervisors encourage cruelty, disrespect, and violence toward incarcerated people. The people we represent report these experiences on a daily basis. Even more disturbing, perhaps, is the frequency with which supervisors themselves are responsible for unnecessarily escalating conflicts or encouraging subordinates to resort to force quickly and excessively. Once an incident is underway, supervisors sometimes participate in the very acts of brutality they should intervene to prevent. And those who do intervene are largely unsupported as they try to impose accountability on their subordinates. The *Nunez* Report describes the trend and its impact:

Staff engaging in insubordination, including in some instances exhibiting out-of-control behavior and physically assaulting supervisors who attempt to intervene in an inappropriate use of force. That incidents like these are occurring at all, and are not addressed immediately by management, clearly serves to perpetuate an already toxic environment.<sup>12</sup>

Even when supervisors are not involved in an incident, they are routinely complicit in violence by failing to ensure a fair or effective investigation process. Interviews with victims or witnesses of use of force regularly take place within earshot of other people, often including the very Department staff involved in an incident. Officers are known to retaliate against people who report misconduct, both violently and through more subtle means.<sup>13</sup> Many people refuse to provide a full account of an incident in order to protect themselves because they fear retaliation in one form or another. Almost universally, victims and witnesses who come forward to report violence or brutality despite the risk of retribution and discredited without any reason. And rather than intervening to address these deficiencies, supervisors often ignore evidence of collusion and fail to interview victims or witnesses of uses of force themselves. Instead, the regular practice is for supervisors to rubber-stamp the statements of subordinate officers.

While the Department's investigators are purportedly independent, the division is plagued by many of the same deficiencies and itself serves as a rubber stamp on misconduct. Preliminary reviews of allegations are rarely completed in a timely fashion, and the investigations that are completed regularly fail to uncover or address staff misconduct. In rare cases that an investigation finds staff misconduct, discipline is delayed and largely ineffectual, except in certain high-profile cases.<sup>14</sup>

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<sup>12</sup> *Nunez* Report at 8.

<sup>13</sup> We regularly hear reports that officers deny access to commissary or visitation to people who report misconduct.

<sup>14</sup> See generally *Nunez* Report at 48-71.

We urge the Department and City officials to closely review promotions, demand a baseline of professionalism and competence from supervisors, and strictly enforce accountability. With even a semblance of adequate supervision, we believe some of the most egregious incidents could be avoided. In the long-term, it is imperative that management and supervisory staff embrace and demonstrate respect for the dignity of the people in their custody. When misconduct does occur, as it inevitably will in a large, complex system, we must demand accountability and transparency rather than allowing misbehavior to fester and go unpunished.

### **Conclusion**

The Council's focus on violence in the jails is timely. Just last week, the Board of Correction ("Board" or "BOC") concluded its public comment period on restrictive housing rulemaking,<sup>15</sup> and is expected to release revised rules in the coming months. In October, the *Nunez* Report laid out an action plan to improve the culture in the jails. The movement to "close Rikers" is well underway. Law reform has paved a path to reduce the population of the City's jails.

Now is the time for fundamental, systemic change. We have a unique opportunity to not just change policy but also to address the serious systemic and cultural attitudes that lead to widespread violence and dehumanizing treatment of New Yorkers in City custody. Yet it is apparent that without more support for City and Department of Correction leadership, the change desperately needed to shift the "deep seated culture" will continue to drag. For years, the Department has promised impending reform, yet after the *Nunez* Report described little progress, DOC Commissioner Cynthia Brann once again sought to justify the continuing problems, noting that "[m]eaningful reform and culture change take time."<sup>16</sup> While we respect that decades of thinking does not shift overnight, at this point change is long overdue.

The culture inside the jails seems to be getting worse, not better. In response to the *Nunez* monitor's conclusion that "the number of [Use of Force] incidents and rates have continued to climb . . . [and recently reached] their highest levels since the Consent Judgment went into effect,"<sup>17</sup> Mayor De Blasio regrettably minimized the findings.<sup>18</sup>

We urge our City's leaders to read the most recent *Nunez* Report as a call to action. Rather than dismissing the findings and further delaying reforms that would ensure the people we incarcerate are treated safely, fairly, and with dignity, we hope the City will expedite culture change and embrace the monitor's suggestions. People, not facilities, are at the root of the problem. Opacity and misdirection, not facilities, are the root of the problem. Excuses, not facilities, are the root of the problem. Until our leaders demand accountability and transparency, the culture of violence

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<sup>15</sup> BDS is grateful for the numerous members of the City Council, including Chairman Powers and Council Member Rivera, as well as Public Advocate Jumaane Williams, who recently urged the Board to impose strict limits on the use of restrictive housing.

<sup>16</sup> Christopher Robbins, New Report Shows NYC Jails in State of Chaos: 'The System is Overwhelmed,' Gothamist, Oct. 29, 2019, <https://gothamist.com/news/report-shows-how-nyc-jails-have-gotten-even-more-violent-system-overwhelmed>.

<sup>17</sup> *Nunez* Report at 7.

<sup>18</sup> Tr. Mayor de Blasio Appears Live on the Brian Lehrer Show, Nov. 1, 2019, [available at https://www1.nyc.gov/office-of-the-mayor/news/522-19/transcript-mayor-de-blasio-appears-live-the-brian-lehrer-show](https://www1.nyc.gov/office-of-the-mayor/news/522-19/transcript-mayor-de-blasio-appears-live-the-brian-lehrer-show) (cautioning "read[ing] too much into" the report in light of plans to "close down the facilities that have been the root of this problem")

will invade any building we use to incarcerate people. We urge the City Council to lead the charge by:

- Requiring that the plan to close Rikers and expand borough-based jails incorporates policy, training, and supervision reforms that address the ongoing culture of violence inside the Department of Correction;
- Pushing the Department and the City to adopt the recommendations of the *Nunez* monitor, particularly those aimed at fully implementing the Use of Force Directive, improving the investigation process, and enhancing staff discipline and accountability;
- Demanding—through oversight, investigation, and reporting—that the Department no longer answer misbehavior with violence, insubordination with misconduct;
- Insisting that the Department curb its overreliance on chemical spray and other overly harsh restraints and instead prioritize and recognize officers who effectively adopt de-escalation practices;
- Encouraging the Board of Correction to adopt strict rules that limit the use of restrictive housing and replace it with effective, humane discipline strategies
- Supporting efforts by directly impacted people and their advocates to call attention to misconduct and excessive force in the jails; and
- Denouncing—in legislation, media interviews, and public forums, the ongoing cycle of violence festering in the City’s jails.

\* \* \*

BDS is grateful to the Committee on Criminal Justice for hosting this important hearing and continuing to call attention to the troubling state of our City’s jails. Thank you for your time and consideration of our comments. We look forward to continuing to discuss these and other issues that impact people we represent.

If you have any additional questions, please contact Kelsey De Avila, Jail Services Project Director, at [kdeavila@bds.org](mailto:kdeavila@bds.org) or me at [bmenschel@bds.org](mailto:bmenschel@bds.org).

# A MORE JUST NYC

**Testimony of Zachary Katznelson, Policy Director  
Independent Commission on NYC Criminal Justice and Incarceration Reform  
Before the New York City Council Committee on Criminal Justice**

Oversight – Jail Violence  
February 3, 2020

I am Zachary Katznelson, Policy Director of the Independent Commission on New York City Criminal Justice and Incarceration Reform, sometimes known as the Lippman Commission after our chairperson Judge Jonathan Lippman. Thank you for the opportunity to testify.

The profound failings of our City's jails are ones of accountability, organization, and management.

This not about resources. In the words of Commission member and former DOC Commissioner Michael Jacobson, DOC is "probably the most richly-resourced correctional system on the planet." We estimate that the current ratio of uniformed staff to incarcerated people is an unheard of 1.7 to 1.

More and better training is always positive, but training is not the problem here either. As the *Nunez Monitor* has laid out, almost all staff have now received the training required to do their jobs and do them well. They simply are not using it.

Lives are at risk. The City must act, and act immediately.

Here are some places to start.

One, DOC should **consolidate operations to as few jails as possible as quickly as possible**. The more jails DOC operates, the more management teams it needs. The best people are spread too thin already, and moved around far too much. Let's have fewer jails and keep staff in one place.

Two, DOC should **immediately analyze staffing in every unit**. There is no justification for having a single officer alone in a housing unit with two dozen people while six other officers stand around in a hallway nearby, something I have seen repeatedly at Rikers and other City jails.

Three, because rapport among staff and with incarcerated people is critical, DOC must **ensure that supervisors and officers are assigned to steady posts and actually work those posts**. DOC should build teams of line staff and supervisors who know each other, can depend on each other, and hold each other accountable.

Four, **involve line staff and Captains in reform efforts**. They surely have some good ideas about how to change things.

# A MORE JUST NYC

Five, the Department should **publicly celebrate staff who help counteract violence.**

Six, supervisors must be held accountable for their failure to effectively manage, supervise, coach, or discipline line staff. **Supervisors who fail should not be promoted or given plum assignments.**

Seven, DOC must **limit the use of Probe Teams**, which are basically riot squads in the jails. The *Nunez* Monitor found they are called far too often and frequently exacerbate violence.

A couple other ideas:

Consider basing **DOC leadership in the jails, not in Bulova.**

And what about adding **violence interrupters to each unit of every jail?**

Finally, this is not just on the Department of Correction.

People accused of parole violations now make up over a quarter of the people in Rikers. The City should be putting tremendous pressure on state authorities to stop jailing people on parole far too often for far too little.

And as the *Nunez* Monitor has explained, there is a strong link between the length of time someone is incarcerated and the likelihood that person will be involved in jail violence. Yet people languish for years before trial. Faster resolution of cases has to be a priority for judges, district attorneys and defenders.

This is all just a start, but we need to get going immediately. Thank you.





Improving health. Igniting hope.

City Council Committee on Criminal Justice

Monday, February 3, 2020

Good Morning Chairperson Powers and members of the Committee on Criminal Justice. My name is Donald R. Powell and I have worked for the last decade at Exponents, a non-profit organization which provides critical services for individuals living with HIV, those struggling with substance use and other behavioral health conditions and persons incarcerated or recently released from NYC jails. On behalf of Exponents' Board of Directors, dedicated staff and our participants I thank you for organizing this hearing and permitting me to testify as someone who has firsthand experience with NYC jail-based violence.

While I am certain we will hear additional testimony that highlight the atrocities of violence in our city jails, I would like to point out that my story took place almost 30 years ago. Let that be a wake-up call that this is not an issue that has just surfaced in recent years. While being detained in the Otis Bantum Correctional Facility, I was sexually harassed by an inmate repeatedly and eventually attacked by him and three other inmates in a stairway on my way from breakfast. When I was able to break free and run up the stairs toward my housing unit with my assailants in pursuit, the Housing Officer closed and locked the door and would not reopen it. I was attacked again.

In the last six months we've witness the death of *Layleen Polanco*, a 27-year old transgender woman with a history of epilepsy found dead in her cell in the segregated housing unit and *Nicholas Feliciano*, an 18-year old Latinx from

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Queens, who attempted suicide after being attacked by several other inmates. Why was this young man, arrested for a technical parole violation, housed in the complex with the highest security classification despite the 'Young Adult Directive' mandate to separate those classified as young adults be detained separately from their older counterparts. Why was he left in a cell for several hours after his attack instead of being referred for immediate medical attention? How do stewards of care, custody, and control stand by for almost 7 minutes watching camera feed of him attempting to hang himself before making a decision to intervene?

I share this painful story to underscore the non-negotiable fact that **neglect and abuse of power are also forms of violence**. As a Black man with justice involvement, I am proud and humbled to live in a time when the winds of reform bring real change for the thousands of men and women detained every day. In 2009, we repealed the draconian Rockefeller Drug Laws here in NYC, which disparately impacted young men and women of color in some of our most impoverished neighborhoods, broke families apart and created fear and anxiety. As of January 1<sup>st</sup> of this year, we celebrated the elimination of cash bail for misdemeanors and non-violent crimes. Now we stand at a place in history where my eyes might see the actual closing of Rikers Island.

I am, however, concerned; concerned that if we don't come up with the solutions to excessive force, mistreatment of our youth offenders, sexual exploitation of those detained, and a lack of culturally-responsive services for those among us daily managing severe mental illness, we will witness the same atrocities in our





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borough-based expansions that we've seen and I've testified to that have occurred at Rikers Island. There has to be a fundamental shift in how we value human life. Correctional staff must be held accountable for treating individuals like more than the mistake(s) they've made or in some cases merely accused of making. If it is indeed true that the mark of a society can be measured by how we treat our brothers and sisters, fathers and mothers, sons and daughters involved in the criminal justice system, we have a far way to go.

Thank you.

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## **2/3 City Council Hearing on Violence in Jails**

**Testimony from Anna Pastoressa, #CLOSErikers Campaign Leader**

**[pastorasta@aol.com](mailto:pastorasta@aol.com)**

My name is Anna. I visited my son each weekend for 6 years from 2010 to 2016 while he was held pre-trial on Rikers Island. The weekend trips to that infamous island have affected me for the rest of my life because my son and I witnessed the violence, and endured abuse from corrections officers on multiple occasions.

I have encountered very nice and humane correction officers. It is unfortunate that they are outnumbered by a majority of violent, aggressive, abusive, ignorant and inhumane officers. My visits became my nightmares because each time I went to Rikers Island I either suffered some kind of abuse or witnessed abuse toward others by the officers. Each time, I prayed that nothing extreme would happen. I witnessed a lot of violence that should have been de-escalated by the officers. Instead they loved to instigate violence between others and had fun watching it.

I was stripped and searched many times, in front of other female visitors while they were waiting to be stripped and searched too. The female corrections officer who searched us seemed to take pleasure in yelling orders at visitors. She made us open up our pant zippers and expose our crotches; pull up our sweaters to expose our stomachs and back, shake our bras out before an officer hand squeezed our breasts. We had to remove socks to expose our feet and legs, let them search inside of our mouths and run their hands through our hair. This procedure was part of the routine at the GMDC building prior to entering the visit room.

On other occasions, I was randomly stripped and searched in a special room where I had to remove my clothes to prove that I had no contraband. These practices made me very angry, shameful and depressed. A few times while in the visiting room at the AMKC building, I witnessed five officers pull visitors from the main room and beat them on the claim that he was passing drugs to the detainees. I remember that it took the entire one hour visit for an ambulance to arrive and help the visitor who was dripping blood from his face and head.

I witnessed male visitors being denied a visit because of a small crack on their ID cards or for minor issues, which were escalated by the officers. When visitors complained and asked to please be let into the visit room, the

officers would threaten them or beat them without mercy. This abuse was happening in front of many other visitors who would keep quiet, too terrified to speak out.

I witnessed correction officers remove diapers from babies in order to search for contraband. I heard officers threatening mothers to have their babies taken away. One time I could not bear watching the abuse and I spoke out. The correction officer told me: "If you don't like it, you can leave." So I decided to stay quiet and navigate the infamous island without any questions. After years of violence, I started "growing a crust" all over me, which kept me numb so that I could visit my son and try to enjoy the one hour we had together.

Several times, I found my son full of bruises and cuts on his face and upper torso. I thought he had been in a fight with other detainees. Most of the times, it was not the detainees who hit him, but the officers when he was not complying with their abusive orders.

During my son's incarceration on Rikers Island for 6 years, he was moved from one area to another. The move consisted of going to "intake" and waiting to be housed again. Each time he was sent to "intake" he was left there for a full week with no bed, no showers, clogged toilet, barely eating, sleeping on a bare, filthy floor and no phone calls. Intake is supposed to keep people no more than 24 hours; that is not what happens on Rikers Island. When I called the facility to find out where my son was, the officers would answer that it's none of my business. They answered that my son was the property of the State of New York. I know that Rikers is controlled by the City of New York so I tried to call 311 to complain, to no avail.

Rikers Island is a violent dungeon ran by a culture of toxic abuse, where guardians take advantage of their uniform to inflict pain on other humans. Instead of giving a good example and treating people with respect, they fuel disrespect and abuse for their amusement. I felt punished over and over again for even trying to visit my son, who lived in this hell for 6 years on Rikers Island.

I truly believe that DOC cannot be reformed or re-trained. Their abusive ways are embedded in their culture of violence which has gone beyond what

is considered acceptable. The only way to remove the violence from New York City jails is to completely remove and dissolve DOC once and for all.



Testimony of

Shari Vrod

Senior Trial Attorney

New York County Defender Services

Before the

Committee on Criminal Justice

Oversight Hearing: Jail Violence

February 3, 2020

Good morning. My name is Shari Vrod and I am a Senior Trial Attorney at New York County Defender Services, a public defense office that represents tens of thousands of New Yorkers in Manhattan's criminal courts every year. Thank you for inviting me today to speak about my experience working with my clients. I have practiced law for 33 years and travelled to many jails and prisons, including death row. Rikers is by far the most violent of these jails. I routinely see clients come to court with slashes down their faces stitched up with many stitches.

In Rikers, both inmates and corrections officers descend into savagery. Although it is widely known that Rikers is notoriously violent, the vast majority of incidents are never made public. Violence is done to others as well as to oneself as demonstrated by the alarming number of suicides committed under DOC's oblivious watch.

Today I would like to share the story of my client, who was attacked while in DOC custody in May 2019. When I met CJ in arraignments, I didn't meet him in the detention area but instead in the courtroom to which cops escorted him. The DA charged him with Assault 2, a violent crime, exposing him to minimum 2 maximum 7 years in jail. The DA alleged that he had thrown glass bottles at passerby's causing them physical injury. He was speaking word salad at arraignments and appeared incompetent. I couldn't get the real story from CJ then. The judge remanded him for a psych exam to determine whether he was fit to stand trial.

A week into his stay at Rikers, CJ was assaulted. Someone chopped him in the back of the neck. At first, it wasn't a big deal but then CJ remained in his cell on the floor, unable to walk, not eating or drinking. Thinking that he was faking or crazy, the guards left him there. Finally, he was brought to Bellevue where the doctors found that he had sustained grave injuries to his neck, leading to a diagnosis of severe neurologic damage and quadriplegia. He had neurosurgery to his C3-C4 vertebrae.

During his hospital stay, he remained in the jail medical ward with guards. He had to be catheterized multiple times a day to urinate and wore diapers for bowel movements. He had blood clots in his lungs and a serious infection of the urinary track. He had a feeding tube for four months and became emaciated.

I visited him over the next four months. I cried each time. CJ called me mama and I was the only person he had. I implored the DA to do some sort of compassionate release or a misdemeanor. I told them that, even when released from jail, he would remain in Bellevue and possibly need lifelong skilled nursing care. CJ was desperate for his quote unquote release so that he could be moved to a more benign non-forensic ward of the hospital.

Four months into his incarceration, the ADA offered him a plea to a misdemeanor and time served. At that time and never before, she disclosed to me and the court that the glass bottles were in fact plastic Snapple bottles and that there was no physical injury such that they could prove maybe a misdemeanor menacing at best. CJ remained hospitalized at Bellevue for the duration of his incarceration, and, even following his jail release, he remained there.

I don't know when he was released but he calls me periodically and leaves me messages with no return number, the latest call being from Bellevue over the weekend.

Violence on Rikers continues unabated. Violence is the norm rather than the exception in DOC custody, which is unacceptable and dangerous for incarcerated people, DOC staff, and all who visit and work in the jails. We must divert as many people as possible from jail and prison altogether, as stories like CJ's are tragically common.

If you have any questions about my testimony, please contact me at [svrod@nycds.org](mailto:svrod@nycds.org).

**The Bronx  
Defenders**

**Redefining  
public  
defense.**

**New York City Council  
Committee on Criminal Justice  
Oversight Hearing on Jail Violence.**

**February 3rd, 2020**

**Testimony of The Bronx Defenders**

**By: Martha Grieco, Deborah Lolai, Tahanee Dunn & Julia Solomons**

Dear members of the Committee on Criminal Justice,

Thank you for the opportunity to testify before you on this important matter.

The Bronx Defenders is a public defender non-profit that is 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.

**We submit the following comments on:**

- I.** The Board of Correction's proposed rule regarding restrictive housing (page 2); and
- II.** The conditions of confinement for Transgender, Gender Non-Conforming, Intersex, and Non-Binary people ("TGNCINB") (page 14).

**I. The Board of Correction's proposed rule regarding restrictive housing will not make jails safer**

We wish to express our grave concerns that the Board of Correction has proposed the continued use of isolation in all of its forms, as well as other restrictive units such as enhanced supervision housing (ESH), and we hope to impress upon the City Council the importance of access to counsel in disciplinary proceedings, whether we are able to finally end the use of solitary confinement or not. We believe that:

- The current use of segregation regularly violates the minimum standards
- Punitive segregation does not change behavior or reduce violence
- Access to counsel in disciplinary proceedings is both feasible and necessary
- It is standard and just practice for advocates to be able to represent their clients beyond the criminal court setting
- Access to counsel in jail settings is standard in other jurisdictions
- Access to counsel must be implemented immediately, and will create a system of checks and balances in the event that other punitive and violent measures take shape in lieu of isolation practices
- ESH has not improved the experience of young adults incarcerated in our city jails
- Rates of violence are only increasing with ESH
- The Blueprint to Ending Solitary is the only way to move forward and create real culture change within our city jails

**The current use of punitive segregation regularly violates the minimum standards**

In New York City, there is not one difference between pre-trial detention and a post-conviction jail sentence. Whether you are serving a sentence after a finding of guilt, or you are just too poor to pay your bail while you await trial, your jail experience is exactly the same. Effectively then, once you are arrested and the judge decides to set bail your loved ones cannot pay, you begin serving a jail sentence whether you are guilty or not. As a result, many people believe that the criminal legal system does not respect them or their rights, and in turn they do not respect it. Kalief Browder was never found guilty of stealing anyone's backpack. The primary witness in that case moved to another country before the district attorney ever brought his case to trial. The evidence against him - a cross-racial point-out identification by the witness from the backseat of a police car - was scanty at best. Yet he served 3 hard years in jail, and over a year in solitary confinement. We will never get Kalief Browder back, but we can march forward with a bold progressive purpose in his name.



At The Bronx Defenders, we believe that solitary confinement is torture. It cannot reasonably be debated. One need not undertake a massive psychological study to understand that denying human beings contact with other human beings for an extended period of time and feeding them meals through a slot damages the psyche. Solitary confinement in all forms makes all New Yorkers LESS SAFE, and as a correctional policy it is destined for the dustbin of history. The City must now chart the path to a new way of addressing violence in correctional settings, and the pathway to ending solitary confinement begins with access to counsel.

Every criminal defense attorney at our office regularly visits their incarcerated clients. The Bronx Defenders has also maintained a unit of attorneys and advocates within the office who specifically make the effort to visit clients in solitary confinement and attend to their unique needs. Our knowledge of what actually occurs in the jails - not what the official Department of Correction (DOC) policy is - comes from seeing patterns in our clients' accounts over the years. Our collective wisdom is their collective experience. We ask the Committee to dig deeper than DOC's directives and policies and seek out the truth of how situations are really handled behind the walls and barbed-wire fences.

First, we would like the Committee to know that, in practice, punitive segregation is 24 hours, 7 days a week in a cell. Although the official policy of DOC is that even people in punitive segregation get a few hours "out of cell" time, this is NOT the case in reality. First of all, "out of cell" time, at best, means a transfer to a larger cell that is open to the outdoors ("rec") or transfer to a TV room for an hour of screen time alone while shackled to a desk. But "rec" time and TV time are rarely in practice given because, our clients report, the officer does not actually announce himself when he walks past the cells before dawn at the designated "rec" hour. No one is awake at that time, nor does anyone have the means to rouse themselves in order to make sure they are waiting by their door when the officer passes by. The officer does not knock on doors, so in order to avail oneself of "rec" time one must know exactly when the officer will be walking by and make sure one is awake and standing by the door. It is cruel. For TV hour the officers put on a movie, often the same one over and over, so if our clients are able to avail themselves of TV time at all they can see the same one hour of the same movie without ever finding out what happens in the movie. Other clients report that officers only take a certain number of people to the TV room per day, so if enough people want to go, you often don't get your turn. This means more time in your cell. Other than for occasional showers once or twice a week, punitive segregation on Rikers Island is solitary confinement 24 hours in a tiny cell with no human contact.

Furthermore, young people who are not eligible for solitary confinement under the Board of Correction's recent landmark progressive rulemaking are still, for all intents and purposes, being subject to solitary confinement. Young people who DOC considers a risk are being held

indefinitely in North Infirmery Command in cages with limited access to programming or education, or actually kept in a one-person cell for days at a time with no showers or rec time while DOC figures out where to house them. Once again, this is the same treatment that is meted out to young people incarcerated because they have been convicted of a crime and who are still *awaiting trial* on their criminal charges.

### **Punitive segregation does not change behavior or reduce violence**

DOC will argue that solitary confinement is simply the only way to punish people for serious transgressions in jail. The purported purpose of punishment is to teach someone not to break a rule; to deter. Yet every single person we have visited in the last few months in punitive segregation at GRVC reported confusion as to why they were there and why they were receiving the punishment they were given. Most were serving “owed” box time, they believed, from an incident they were involved in months before. Our attorneys had no access to the paperwork DOC is supposed to give someone explaining their conviction and sentence. Clients report to us that they are being punished as much as 9-10 months after their infraction, and sometimes for a transgression that involved disobeying an order rather than violence. Our clients are understandably frustrated.

The role of an advocate is so much more than just fighting the case. The advocate also explains the case to their client, answers the client’s questions, speaks to family members about the case who may be able to play a role in the person in custody’s behavior, relays information from the prosecuting authority. At Rikers, the disciplinary practice is an absolute mess. Incarcerated people are grasping in darkness. If there was a reason DOC ordered a client to serve their sentence for an infraction that occurred many months ago, an advocate could have helped explain the reasoning to the client so they could understand what is expected of them and what consequences they face if they take certain actions. That is the basic blueprint for a disciplinary system, that it at least be comprehensible to those being disciplined. Right now the system is both arbitrary and cruel. An arbitrary and cruel system only teaches the worst lessons.

### **Access to counsel in disciplinary proceedings is both feasible and necessary**

Another role of an advocate is, of course, to fight for their client. Our attorneys have assisted a client who was accused of participating in violence and then were held in pre-hearing detention indefinitely without ever getting a hearing. Our attorney reports that when they first met him in the counsel visit room he was ecstatic to finally be seen by someone. He did not understand why he was in punitive segregation without a hearing and had no access to anyone who would help him. Yet, once the attorney advocated for him up the proper channels, he was immediately released.

There must be many other examples like this client, where a hearing was simply never held and the client never found out why. But more commonly our clients report that DOC lied and said they refused the hearing. DOC is currently not required to notify anyone outside DOC when they place someone in solitary confinement - not the person's family, not any of the person's legal advocates. There is no one who can hold DOC accountable and make sure they are not punishing someone arbitrarily. Other clients report that when they show up for their hearing ready to litigate with witnesses to support them the hearing officer threatens them with more box time if they go through with the hearing.

If someone is placed in solitary unlawfully, there is literally nothing that person can do to self-help. No one can hear them scream. Officers do not help them even if they know they are not supposed to be there. Attorney visits and video conferences are hampered constantly. Visiting a client in solitary confinement is even more onerous than the already trying process of visiting clients in the general population; on average when our attorneys visit clients in solitary they wait 2-3 hours just to begin the interview. Materials from the law library are supposed to be available to people incarcerated in solitary confinement units to allow them to write to the warden in appeal their infraction conviction or file writs, but of course no one is produced to the law library from solitary, our clients report that nobody who staffs the law library comes to see them in solitary, and if they request law library materials from the beat officers they are ignored.

**It is standard and just practice for advocates to be able to represent their clients beyond the criminal court setting**

The role of a defense attorney is so, so much more than conducting trials. In fact, over 90% of criminal cases in New York City end in plea bargains. Plea bargains are often the result of an accused's advocate presenting mitigating circumstances. The role of an advocate is not always to fight the case, but often to explain the context that lead someone to make an unfortunate decision.

If advocates are in the room when DOC is deciding what to do with someone who hurt another person in custody, perhaps there would be some mediation, conciliation, consideration of all the facts and circumstances - even restorative justice. Our criminal justice system does not work by formula; the sentence is supposed to be crafted to fit the crime and the person who committed it, including their life circumstances, their history and their capacity for rehabilitation. But in DOC jails, incarcerated people are sentenced to the worst hell imaginable - total isolation from other humans - without even so much as a word in their defense, a word to mitigate the circumstances, a word to breathe life into the incident as it was lived in the moment.

DOC would ultimately retain discretion, but a brief conversation between an advocate who is practiced in distilling facts and articulating persuasive arguments could do wonders for DOC's perception of an incident. Defense advocates already know that our clients tend to be the most exploited, abused and neglected people of New York City. As the city turns increasingly toward understanding and treatment of people accused of crimes rather than defaulting to punishment, DOC remains stubbornly committed to otherizing and demonizing the human beings in their "care." Advocates would push back on that narrative in face-to-face conversations with DOC employees.

As a result of the lack of any outside oversight and our clients' inability to advocate for themselves in any way, solitary confinement, even though DOC acknowledges it as a severe form of punishment, is vastly overutilized. The more the disciplinary system is overloaded, the greater the temptation to lower standards. If the Committee wants only people in the most dangerous of circumstances to be subjected to solitary confinement as a very last resort, then there must be some check on DOC. Real due process would signal to DOC that the Committee takes placing someone in solitary confinement extremely seriously, and a legal advocate involved in the hearing would enforce due process. If the Board of Correction wants to continue to tinker with this extremely dangerous form of punishment, it should know the first and last names of everyone who is experiencing isolation, whether in punitive segregation, in ESH level 1, in NIC, or anywhere DOC shutters someone away. It should be considered a momentous occasion in which the person is well aware of the reasons for the placement, a thorough examination of the circumstances that led to the placement has been undertaken, and medical and mental health staff are dispatched to the unit round-the-clock.

This scenario - in which the use of solitary is whittled down to the most extreme cases - must be a stopover state of affairs until solitary confinement can be completely eliminated. Although the Board's proposed rule does not end solitary confinement, the Bronx Defenders urges the Committee to end it in all of its forms right now. But even if the Committee will not take this step, there is absolutely no reason to wait to implement access to counsel by reinserting the counsel provisions back into the proposed rule.

The earlier version of the proposed rule allowed for access to counsel but the provision was wiped out in the new rule, one Board member mentioned at one hearing, due to "cost." To be clear: we are not asking the Board to create a right to *appointed counsel*, we're *not* asking for the city to give people lawyers at these hearings - they *already have lawyers*. Furthermore, we are not asking for mandatory representation at the hearings, such that if a person is unrepresented the hearing cannot be held. But every single person in the jails already has a lawyer. Why can't their advocates, if available, represent them in this collateral process? At The Bronx Defenders, and at probably every public defender office in this city, lawyers already follow their clients to ancillary

hearings - hearings at the DMV, hearings at OATH, hearings at the TLC. We do not get paid extra for this. It is the very definition of our holistic model at The Bronx Defenders that we fight for our client in every arena, wherever systems take them. We have advocates at our office who are not lawyers who represent our clients in hearings at the human resources administration, NYCHA and at meetings with ACS. It strengthens our relationships with our clients and ultimately helps us solve their problems holistically.

There is no good reason it should be any different in a correctional setting. We are optimistic that the culture of Rikers Island is moving away from a version of "justice" that meant viciously beating people in their care who committed violent acts<sup>1</sup> - no hearing, no impartial adjudication, just pure vengeance - but there must be some place it intends to go. If the culture of Rikers Island is going to change to one in which fairness, impartiality, and human dignity are the norm, access to counsel is the first step.

### **Access to counsel in jail settings is standard in other jurisdictions**

On this issue, New York is well behind the curve. Counsel is permitted at disciplinary hearings in Massachusetts, Colorado, Washington State, Kentucky, Alaska, California, Minnesota, and a pilot program is being developed in LA. But perhaps the model jail system New York can emulate is Washington, D.C. Public Defender Services of D.C. ("PDS") has an entire unit of their office devoted to reentry and advocacy for incarcerated people, including representing them at disciplinary hearings at the jail, and they meet regularly with the DOC commissioner in a friendly exchange of information. It is not so novel.

In Washington D.C., whenever someone receives a ticket for a disciplinary infraction that is a Class 1 offense (similar to what New York's DOC designates Class 1), their Department of Correction gives the person in custody a form in which they can request that PDS represent them at the hearing. Then, the Department emails PDS a notification of the hearing at least 24 hours before it occurs. PDS does a conflict check and then tries their very best to make it to the hearing. The chief judge of D.C. issued an administrative practice order to allow law students to represent incarcerated people at these hearings under PDS attorneys' supervision. Although the date of the hearing could be any weekday because it occurs within 7 days of the incident, the hearings are always at the same time. Surveillance video and stills are frequently marked "for attorneys eyes only" to accommodate security regulations. The advocates will sometimes meet

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<sup>1</sup> It was only 8 years ago that Robert Hinton was hog-tied, beaten and choked to within an inch of his life as medical staff begged the officers to stop, prompting an OATH administrative law judge to recommend the firing of 9 officers and captains.

<https://www.nytimes.com/2014/09/30/nyregion/in-rare-decision-judge-urges-firing-for-6-rikers-island-officers-who-beat-inmate.html>

with witnesses in interview rooms and obtain affidavits for submission at the hearing. Rather than one hearing officer, an "adjustment board" of three experienced officers presides over the hearing. The decision is rendered immediately. Much of what is litigated is procedural violations such as that the officer who investigated the case and obtained statements from other officers was also involved in the incident; chain of custody issues for possession of contraband; not providing notice to the person in custody; mistaking the person in custody's age.

This culture of due process has been woven into D.C.'s Department of Correction because access to counsel has been a right since the 1980's. The hearings seem similar to traffic ticket hearings at the DMV. In fact, Bronx Defenders attorneys regularly represent clients in collateral DMV hearings in order to litigate important issues such as the reason for a car stop in a case where our client is charged with drug possession or a DWI. Our attorneys take the subway to Fordham Road early on Thursday mornings, walk a mile to the DMV, litigate at the hearings by questioning police officers and examining paperwork, make arguments to an administrative judge, and a decision is immediately rendered. Although of course DOC would have to work with advocates to provide access to private places to meet and to the hearing rooms, nothing about the logistics of representing people at Rikers Island presents a concern.

**Access to counsel must be implemented immediately, and will create a system of checks and balances in the event that other punitive and violent measures take shape in lieu of isolation practices**

It is important that access to counsel begin immediately so that a "judicial"-like system can begin to be built, where everyone becomes familiar with the rules and regulations and so that the culture of due process can become second nature replacing a culture of arbitrariness and cruelty that has reigned for so long. We commend the Board of Correction's proposed rule of videotaping all hearing refusals, as this will protect the many clients who have reported to us that DOC lied that they refused their hearing. We also commend the Board of Correction for requiring DOC to notify the person's attorney that they received a ticket. But these proposed rules skirt around due process; they will not stop the practice of coercing clients to give up their right to a hearing, and they will not help clients who do not deserve to be incarcerated in the first place. Only full access to counsel can ensure due process. If the Committee allows the person in custody's advocate to come to the jail and do what they do - advocate - the jails would be a safer and more humane place for everyone.

If the Committee puts access to counsel in place right now, then as DOC phases in alternatives to isolation advocates will be there at the jails on the frontlines informed and able to report back any potentially problematic situations, possibly preventing tragedies. Time and again we have seen that where DOC is denied the option of solitary confinement, they often implement the

same type of condition through a back door. One of our clients, who was too young to be placed in the adult solitary confinement unit at GRVC, was instead simply placed into general population in GRVC and locked into his cell for 5 straight days with no shower or rec, receiving his meals through a slot, so that he was separated from other youth but prevented from commingling with adults while DOC “figured out” what to do with him. This would appear to directly violate the ban on solitary confinement for young people.

We anticipate as well that if solitary is reduced or eliminated DOC will increase the use of other restrictions such as mitts, leg chains and shackles. Although it is official DOC policy that before a designation of “enhanced restraints” is given to a person in custody they must have a hearing, not *a single one* of our clients has ever had such a hearing. If our clients have access to counsel before restraint status is implemented, even if just via correspondence rather than live hearing, and even if the security information used to justify an enhanced restraints application is kept “for attorneys eyes only,” it will still be some check on DOC’s relentless use of deprivation to address conflict in the jails.

Equally concerning is the use of “loss of good time” to punish sentenced people who cannot be placed in solitary for mental health reasons. Loss of good time means essentially extending someone’s sentence - a severe form of punishment. When we recently toured one of the CAPS units we were told that although seriously mental ill people were placed in CAPS as an alternative to solitary confinement, their mental health was not taken into account when considering whether to find them guilty of the infraction in the first place. We have had clients lose good time and are serving longer sentences because of behavior tied to their mental illness.

It is also official DOC policy to conduct a hearing before placing someone in ESH. Based on our clients’ experiences it appears that ESH is primarily used as an alternative to solitary for young people, and also for adults as a “step down” from solitary after they have served the maximum time allowed. Our clients report that they are getting “hearings” before ESH placement, but that it is a “hearing” in name only. In reality it is just a moment inside a room in which a higher level DOC staff person such as a captain or a deputy reads from a sheet of paper the reasons the person is being placed in ESH. There is no opportunity for the person in custody to challenge those reasons, and the recitations probably leave out significant information such as “intelligence” DOC keeps secret. The sheet of paper is never provided to the person in custody. This is especially concerning given that the determination is often made based on accusations of violence that were never litigated in a hearing. So a “wrongful conviction” for a violent infraction could lead not only to punishment by solitary confinement, but to an endless cycle of admissions into ESH.

Denying incarcerated people due process is counterproductive to the goal of reducing violence in the jails. Our clients are experiencing the torture of 24-hour isolation and they rarely even understand why. They're shackled to a desk and they don't understand why. They're wearing mitts 14 hours a day and they don't understand why. They can't explain their side of things to anyone. The powerlessness that people feel while in custody is the root of the harm, the root of the violence. The support of an advocate, even just to help demystify some of what is happening to people during disciplinary proceedings, would make a tremendous difference. Our clients feel completely ignored there, and that's because they are. Shine a light, let us in.

### **ESH has not improved the experience of young adults incarcerated in our city jails**

On January 1, 2016, the Board of Correction unanimously voted to end the use of solitary confinement for young adults, under the age of 21. New York City received praise from across the nation, being labeled as a leader in solitary confinement reform; revered for taking such a bold step toward ending inhumane practices that, for years, literally led to the deaths and demise of young New Yorkers in DOC custody. But, in truth, and in practice, not much has changed for the young adults living out their days on Rikers Island. The so-called progressive step to reforming such a torturous system was simply a matter of semantics. Solitary Confinement for young adults was renamed, Enhanced Supervision Housing ("ESH").

The irony of ESH is that the Board of Correction was originally against the creation of such a unit, acknowledging the unique needs of the young adult population, referencing the harms caused by the use of solitary and isolation, which lead to seeking out the guidance of leading academics, organizations, and professionals in the field. The Board of Correction followed by granting DOC variance after variance, despite countless personal stories of violence, due process violations, and extended periods of isolation; despite professional reports confirming those stories; despite social and neuroscientific findings suggesting that the mere existence of ESH caused irrevocably harm to young adults. Most important, ESH continues to exist despite the Board of Correction's own findings that improvement is needed, including policies and practices related to progression through ESH and periodic reviews, medical case access, lock-out, steady staffing, and improved fairness and transparency in DOC's implementation of ESH due process.

By the Board of Correction's account, concerns regarding transparency, fairness, policies and practices persist. Specifically, the Board of Correction cited concerns about the following: lockdowns and lock-out schedules, operational issues related to staff and management, safety concerns, a general lack of engagement, an abuse in the use of restraint desks and other enhanced restraints when out of cell, a lack of mental health services, limiting or loss of visitation, lack of progression through program levels, and a lack of monitoring of progression due to limited data management. The Board's concerns are valid and are shared by other organizations, advocates,



scholars, families of the young adults housed in ESH, and, of course, the young adults themselves.

Reports generated by DOC over the past 3 years have consistently admitted that the placement and review process lacks transparency and fails to engage the young adult in the process. On multiple occasions, DOC has admitted that they have yet to identify and implement a data system that would allow for “more substantive evaluations of behavioral outcomes for ESH inmates.”<sup>2</sup> DOC has suggested that the current data analyses “of inmate behavior before, during and after show mixed results” and “additional insight is needed into the mechanics that permit inmates to graduate to higher levels, and that special attention is warranted for understanding how more inmates could be encouraged and coached to progress up and out of the unit.”

In light of DOC’s own conclusions of how ineffective ESH has been over the past 4 years, one must ask, how does this unit still exist? Why has the Board continued to grant variance after variance? Young adults have spent months in ESH, without any meaningful initial placement hearing and subsequent reviews. The average time spent in ESH level 1 is 75 days! That is almost 3 consecutive months of isolation, without adequate mental health and medical services, without intentional and meaningful programming, without community involvement, without contact visits. That is almost 3 consecutive months of 7 hours or less of out of cell time, only to be shackled to a desk when you are out of your cell. And then, if you are lucky enough to meet the arbitrary criteria of stepping down to level two, the conditions remain relatively the same, for another 3 months.

### **Rates of violence are only increasing with ESH**

Imagine being 18 years old, spending the majority of your day locked into a single cell, for months on end. Imagine being shackled to a desk, placed so far from a television that you can’t hear what’s being said, much less see the images on the screen. Imagine struggling with anger and loneliness, with the confusion and frustration that is jail, and not yet having the emotional tools to deal with those feelings. Imagine being scared for your safety and having to defend yourself against older incarcerated people and DOC staff. Imagine having to come to terms with all the possible outcomes of your ongoing criminal case and reconcile the idea that you may be separated from your family and community for years. Even the most emotionally mature and collected adult would act out and mentally decompensate under those circumstances.

DOC cannot be tasked with creating plans for a new or improved ESH because they cannot be trusted to adhere to the current standards, as written. According to the Nunez Monitor’s most

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<sup>2</sup> DOC Sept. 2018 ESH Evaluation Report.

recent report, DOC does not have an effective strategy for managing incarcerated youth and young adults. DOC is incapable of keeping young adults safe, deescalating and engaging in crisis management. This is evident from the most recent reports on DOC use of force, which shows that use of force rates were significantly higher against young adults than their adult counterparts. This is also evident from DOC's December 2019 Young Adult Progress report which states that out of 4,614 uniformed employees assigned to units where young adults are housed, only 1,524 are qualified in young adult focused trainings such as, safe crisis management, direct supervision, and supervision of adolescents or general safe crisis management.

Thus, allowing DOC the discretion to devise another disciplinary system plan for young adults flies in the face of logic. And THAT is what the current proposed rules allow for. Moreover, the current ESH plan cannot continue to exist as is either; it allows for agency abuse of power, and to the detriment of young adults, their families and NYC communities. ESH, as it currently exists, has not reduced violence among the young adult incarcerated population, it does not incentivise good behavior, the programming is not rehabilitative or holistic in approach. It is penal in nature, tortuous in application, and has irreversible and damaging effects on those who have been housed there, no matter the length of time.

To be clear, it is our position, as it is many others', that ESH must be dissolved and closed down immediately. Young adults must be housed with similarly aged people, provided ongoing, intentional and meaningful programming. But most importantly, they must be cared for and supervised by trained, compassionate, dedicated staff who understand how vulnerable and impressionable this age group is. Furthermore, young adults need to have unlimited access to mental health staff who are trained in how to address the plethora of trauma induced experiences criminal justice involved youth have had to endure, prior to entering DOC custody and while there.

### **We recommend a set of immediate changes to the administration of ESH units**

First, allow for young adults to be represented in their initial ESH placement hearings and all subsequent reviews. This would ensure that due process is afforded to every young adult facing possible placement in ESH. As outlined in detail above, having an advocate present could provide for a meaningful review, guaranteeing transparency and accountability amongst all parties involved. Second, eliminate the use of restraint desks and enhanced restraints when out of cell. Considering the DOC staff to young adult ratio in ESH, there is no rational reason why a person should be restrained for the little time that they have out of their cell. Third, insist on a data collection system that allows for meaningful review of a young person's mental health status, regardless of whether they have a mental health designation. Fourth, exclude young

adults with mental health designations from being placed in ESH. Fifth, ensure that the programming offered to young adults in ESH is intentional and implemented by trained and dedicated staff. Sixth, eliminate loss of contact visits as a possible penalty while in ESH. Lastly, increase the out of cell time to 14 hours a day, as advised by other child and young adult focused organizations.

The mechanisms for each of these suggested changes to ESH policy and practice already exist. If DOC does not have them, they exist within the community of advocates, academics, and organizations who are here to help answer any and all questions the Committee may have during this monumental and incredibly important decision making time. We encourage the Committee to take this opportunity to change the lives of so many and follow in the footsteps of Washington, DC, and Los Angeles. The well-being and safety of young adults in this City depend on it.

**The Blueprint to Ending Solitary is the only way to move forward and create real culture change within our city jails**

The Bronx Defenders is proud to be signed on to the Blueprint to Ending Solitary, championed by the HALTsolitary campaign and the Jails Action Coalition. While we believe access to counsel in disciplinary proceedings is critical to shifting culture and the power imbalance within our city jails, we would be remiss not to emphasize the belief we share with so many other advocates and community organizations in the city: we must end solitary confinement in all of its forms immediately. The Blueprint provides a clear path and explanation of how we can do this successfully. It requires, however, the belief and understanding that torture does not change behavior. That denying people their most basic needs and damaging them psychologically will never successfully reduce violence. We must truly change the culture of our city jails, and the way we support, rather than punish, people in making behavioral change. Examples like the CAPS unit, that has often provided our clients with more support than they were able to access in general population housing, show us that this type of change is absolutely possible. In and outside of jail settings, we regularly encounter our clients at their lowest moment, and in the situations where they are offered an opportunity and the right support to make the changes they want to make- be it achieving sobriety, accessing mental health support, or working on vocational goals- the outcomes are often monumental.

**II. The conditions of confinement for Transgender, Gender Non-Conforming, Intersex, and Non-Binary people ("TGNCINB")**

Over the past several years, much attention has been paid to the abuse of TGNCINB people who are incarcerated and in the custody of the Department of Correction (DOC), and many improvements have been made in the past year. For example, *some* transgender women are now

being housed consistently with their gender identity; DOC hired a Director of LGBTQ Programs, who has been working diligently to repair the harm caused to TGNCINB incarcerated people and reforming internal operations; the City Council passed Local Law 2019/145 requiring the Board of Correction to convene a task force that addresses these issues; and DOC released a new directive addressing the needs of LGBTQ incarcerated people.

While DOC has made significant improvements in the treatment of some TGNCINB people in their custody, there are many TGNCINB incarcerated people whose needs continue to be unmet and unaddressed by the new Directive, and whose safety is compromised. For example:

- Many transgender women continue to be housed in men's jails against their will;
- The factors that DOC considers to determine permanent placement are problematic and often use past incidents where transgender people were defending themselves as a reason to deny them housing consistent with their gender identity;
- DOC continues to suggest that some transgender people who don't fit stereotypical gender norms are "pretending to be transgender," a statement which is inherently transphobic and sexist;
- All transgender men are housed in women's facilities because a safe alternative does not exist for them, resulting in constant misgendering and harassment by correctional officers;
- The use of punitive segregation continues to disproportionately impact TGNC people; and
- There is a lack of access to meaningful and culturally competent programming and healthcare.

These are practices that continue to place TGNCINB people at risk, and they need to end. We'd like to illustrate some of these practices with sharing one of our client's recent experiences:

Mr. Celestian is a transgender man who entered into custody in October 2019. His court paperwork had "male" written on it, so he started off at the men's intake facility. No one knew he was transgender at this point. An officer recognized Mr. Celestian, and outed him to all the other officers in front of the cisgender men Mr. Celestian was sharing a cell with. The officers proceeded by arguing about where he should be placed, all in the presence of Mr. Celestian and the other men he was incarcerated with. In his own words, "I could have been safely housed in the men's jail, but the officers were the ones who made it unsafe for me." He was transferred to Rose M. Singer Center (RMSC), where he would endure endless humiliation, harassment, and abuse from officers and incarcerated cisgender women. He was housed in a general population unit, with only cisgender women, who would not allow him to shower in peace and would

constantly harass him. When he complained about the way he was being treated, DOC gave him the option to be placed in protective custody. He didn't want to isolate himself and deal with another type of harm, so he elected to remain in general population and endure the harassment. He applied to be housed in the Special Consideration Unit, formerly known as the "Transgender Housing Unit (SCU)," but his application was denied multiple times because "DOC did not want him to become pregnant." While Mr. Celestain was being harassed by incarcerated cisgender women, the most egregious conduct was by the officers and a captain. He was constantly misgendered. His pronouns were routinely intentionally ignored, even after asking the officers and captain he would see on a regular basis to use male pronouns because he was a trans man. On one occasion a few days after entering custody, Mr. Celestain asked an officer to stop calling him "Ms." and she responded with "you know you are in a female facility and in order to be here you need to be a female." After a back and forth, the officer said, "I'll prove to you that you are a female," and proceeded to forcibly pull down Mr Celestain's pants in public. There were many, many more incidents as horrific as this one, and it took a severe toll on Mr. Celestain's mental health. He began struggling with the worst dysphoria he had experienced in years, and even began to have suicidal thoughts. After months of reapplying to be placed in the SCU, he was finally accepted into it, thanks to the advocacy of Elizabeth Munsky, the only staff member in DOC who showed Mr. Celestain any respect and advocated for what was in the best interest of his safety and well-being. Mr. Celestain's story is unfortunately not uncommon.

Again, we recognize the significant improvements that DOC has made, in large part due to the efforts of many people and agencies at this hearing, including TGNC advocates, prisoner rights attorneys, City Council members, the 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. We look forward to our work with the newly convened Task Force pursuant to Local Law 2019/145. 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.



New York City Council  
Committee on Criminal Justice

**Oversight Hearing – Jail Violence**

Monday, February 3, 2020  
Council Chambers, City Hall  
New York, NY

Testimony of  
Jennifer J. Parish  
Director of Criminal Justice Advocacy  
Urban Justice Center Mental Health Project  
(646) 602-5644  
[jparish@urbanjustice.org](mailto:jparish@urbanjustice.org)

Good morning. My name is Jennifer Parish, and I am the director of criminal justice advocacy at the Urban Justice Center Mental Health Project and a member of the NYC Jails Action Coalition and #HALTsolitary campaign. I am also a member of the Department of Correction Crisis Intervention Team Advisory Board. Thank you for this opportunity to testify on jail violence.

The Urban Justice Center Mental Health Project advocates for people with mental health concerns involved in the criminal legal system. We represent the *Brad H. Class*, all incarcerated individuals who receive mental health treatment while in New York City jails. We are deeply familiar with the difficulties people with mental health issues have within correctional facilities and in accessing essential mental health services, housing, and benefits upon release. We are extremely concerned that the jail environment, especially placement in solitary confinement, harms these individuals not only while they are incarcerated but after their release. Because placement in solitary confinement can cause anyone to develop mental health challenges, we support ending its use for all people.

Today I want to focus on one intervention for reducing violence with respect to people with mental health concerns – the use of crisis intervention teams (CIT). This intervention is a solution that has shown promise. Unfortunately Department of Correction (DOC) leadership has not embraced and fully implemented CIT.

In December 2014, the Mayor’s Task Force on Behavioral Health and Criminal Justice included the development of CIT in its recommendations for ensuring that people with behavioral health disorders in the jails receive treatment that is therapeutic rather than punitive.

The CIT model was originally designed to improve police response to mental health crisis. In 2015, the City adapted CIT to the jail setting. Crisis Intervention Teams in the jails consist of DOC and

health staff who have received a five-day training that includes education regarding mental health symptoms and methods of de-escalation. One of the key features of the training is role playing mental health crisis situations with actors. Staff have the opportunity to practice the de-escalation skills they are learning and receive feedback from trainers.

As a member of the CIT advisory board, I have observed the training. I was impressed with the content which includes people with mental health concerns who have been incarcerated sharing their experiences. The training has the potential to help officers better understand people with mental health concerns and to engage them to deescalate crises.

Deploying CITs has shown promising results. The first year evaluation documented significant reduction in injury rates. The Preliminary Mayor's Management Report of February 2019 stated that 854 staff (674 correctional and 180 health staff) had received CIT training as of October 2018. According to the Preliminary Mayor's Management Report released in February 2017, use of force in the units that had CITs decreased by 43%. The September 2019 Mayor's Management Report and January 2020 Preliminary Mayor's Management Report did not include any information about CIT.

To their credit, DOC and Health + Hospitals Correctional Health Services (CHS) staff who work together to plan and deliver CIT training are committed to its success. They recently revamped the training curriculum; they also developed a version of the training that is specific to young adults as well as a refresher training. Unfortunately the problems that plague other aspects of DOC operations limit the effectiveness of CIT. For example, the few wardens who were trained in CIT have rotated out of those jails, and steady DOC staffing is not maintained in the mental health units.

Without leadership support for CIT, it has not been engrained in the jail culture. Crisis Intervention Team activations have not become the routine response to incidents involving people with mental health concerns. Although DOC reports that trained staff use their de-escalation skills informally without the support of mental health staff and that CIT activations are underreported, formal activations of CIT teams remain rare. In 2019 there were fewer CIT activations than in the previous three years even though staff in more facilities had been trained.

Current DOC leadership does not appear to be invested in this approach to reducing jail violence. They have not allocated the resources needed to make CIT a robust intervention, and they do not provide the support needed to ensure that facility management promote the use of CIT. It seems that correction staff involved in the trainings are basically acting as volunteers as conducting the training is not part of their assigned responsibilities. For a CIT response to be effective, staff need time to deescalate the situation. Without support from facility leadership, they are not allowed the space they need to resolve the situation without a use of force.

The City should invest in CIT as an important part of its violence reduction efforts. There should be specific staff lines funded to plan and conduct CIT training. Policies promoting CIT as a response to people in emotional crisis and directing how DOC and CHS staff work together to implement and report on CIT must be developed. It is not enough for staff to be trained on CIT; they must have support in providing CIT responses once they are back in the jails.



Dec 18



## AN OPEN LETTER TO NEW YORK CITY CORRECTIONS OFFICERS

We are a group of formerly incarcerated individuals, and loved ones of people formerly and currently incarcerated, and we are fighting to #CLOSErikers. You may not know it, but we're fighting for you too. We know that this system dehumanizes you along with those who are detained, because a system that chooses punishment as its main goal and strategy then relies on you as the instruments to deliver that punishment. And we know that to carry out that role, day after day, degrades your humanity. Much like the human beings you guard, we understand that you are affected by the toxic environment you spend your days in. It is the failed leadership of the Department of Corrections and our elected officials that have allowed that environment to develop and persist.

When you were growing up, the future you imagined for yourself probably did not involve locking other people in cages. After you've witnessed, or maybe been involved in, brutality and abuse, it cannot be easy to go home to your family and try to detach from what you've experienced. We understand that every time you see a sick person left screaming for help in their cell, a teenager writhing from the burn of pepper spray, the body of someone who's taken their own life in desperation, or any human being beaten and humiliated, it leaves some scar on your psyche and your soul. We know the stories and the statistics of the depression, substance abuse, intimate partner violence, and trauma that are common among people who have worked as corrections officers.

The leadership of the Corrections Officers Benevolent Association (COBA) have suggested that the way to address violence on Rikers is to expand the use of solitary confinement. You know what solitary confinement does to people. You know that the deprivation breeds anger and often more violence. And you also know that most of the people at Rikers are coming home at some point, many of them very soon. Some of them were your neighbors, and will be again. Some of them are your family.

Many of you know that we need a drastically different approach to addressing harm, violence, and rehabilitation in our City, and in our country. You have seen directly the ways that our system of punishment has failed to make us safer.

And we understand that you may be concerned about what a different approach to justice, and, ultimately, an end to mass incarceration, would mean for your ability to provide for your family. We want investments in more living wage jobs that are not dependant on caging or controlling other people. To build strong and stable communities, we'll need many more people working as mental health first responders, as restorative justice practitioners, as youth counselors, as employment specialists, in green jobs, for the Parks Department, for Transit, and in many other roles. We'd like to talk with you about a plan to help those of you who are interested to prepare for those jobs.

We know that COBA's leadership has decided that they will fight to keep Rikers open. Instead they could be fighting for the new jobs our City needs, and to help you transition to those jobs. We also know that COBA does not speak for all of you. For those of you who believe we need a different future, let's work together to see New York City's justice system truly transformed. You learn more about our campaign at [www.closerikers.org](http://www.closerikers.org), and you can get in touch with us at [betterfuture@justleadershipusa.org](mailto:betterfuture@justleadershipusa.org) or 347-927-0236

In solidarity,

The leaders of the #CLOSErikers campaign



Some of the findings of this report that are most concerning to us, and should be to the Council, are in my written testimony.

- On page 7, the report states that "...the Department has not shown itself capable of devising and implementing effective strategies to fully institutionalize the use of force reforms required by the Consent Judgment." p. 7
- On page 10, the report states that "the Department remains in Non-Compliance with four of the most consequential provisions of the Consent Judgment: (1) implementation of the Use of Force Policy; (2) timely and quality investigations; (3) meaningful and adequate discipline and (4) reducing violence among Young [People]
- On page 11, the report states that "The Department has not been able to keep pace with timely investigation of Staff misconduct and there is a backlog of approximately 6,815 investigations"
- And on page 22, the report states that "Compared to the [Use of Force] rate when the Consent Judgment first went into effect (3.75), which was concerning enough on its own, the average UOF rate for the Eighth Monitoring Period was 7.41, a 98% increase since 2016."

This last point is especially important, because Commissioner Brann has stated that this is not the same Department as it was five years. What does she mean by that, when it is, by this report, a Department in which officers use force TWICE as often as they did 3 years ago?

What will the Council do about the Department's continued and documented failures that cause harm to the people in their custody? Three specific questions I would ask today:

- 1) The Department was required to set up an early warning system to "identify as soon as possible Staff Members whose conduct warrants corrective action." They have set up the The Early Intervention, Support, and Supervision Unit (EISS). However, because of a lack of effective implementation, the report notes "While E.I.S.S. will ultimately need to be broadened to identify and offer support to additional Staff Members, at this juncture, the Monitoring Team hesitates to encourage expansion." What, then, can the Board suggest to address the obvious need - shown by the high and growing number of use of force incidents - to enroll more staff in a program like EISS?
- 2) Second, how will Council address the Department's backlog of approximately 6,815 investigations regarding staff misconduct?
- 3) And last, because of the Federal Monitor, the Department of Corrections is required to provide a report listing every pending disciplinary case and the officers involved. Will the Council request this report, and make it available to the public.

As this Department of Corrections opposes the elimination of solitary confinement; as this Department fails to comply with key components of the Federal Monitors Consent Judgment for the eighth year in a row, and as the Department puts individuals like Kalief Browder, Layleen Polanco, or 18 year old Nicholas Feliciano - who hung for 7 minutes as Corrections' staff neglected their duty - please, ask yourselves: is this an agency that has a role in a decarcerated New York City? How will they possibly reflect our values of ending mass incarceration and improving conditions for incarcerated people?

Brandon J. Holmes



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

**Oversight Hearing:  
Violence in the City Jails**

**February 3, 2020**

**Testimony of The Legal Aid Society Prisoners' Rights Project**

Presented by:

Mary Lynne Werlwas  
Director  
Prisoners' Rights Project  
The Legal Aid Society  
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The Legal Aid Society thanks Chairman Powers and the members of the Committee for holding this hearing and being a strong voice for accountability in our City's jails and institutions. Today's hearing addresses one of the signature human rights violations in our City in our times: persistent violence against people who are remanded to the custody of the New York City jails to await their criminal trial or serve a misdemeanor sentence.

Each month, the Prisoners' Rights Project speaks to hundreds of people incarcerated in the City jails who contact our office out of fear for their health or safety. Many seek help getting medical care or mental health services; others have been victims of violence by correction staff or other incarcerated people. We are also plaintiffs' counsel in *Nunez v. City of New York*, which to date has produced eight increasingly bleaker reports by a corrections expert about the City's inability to curb violence within its facilities. See, e.g., *Eighth Report of the Nunez Independent Monitor ("Eighth Report") in Nunez v. City of New York et. al., 11-cv-5845 (LTS) (SDNY), filed October 28, 2019.*

The paradox is profound: the numbers of individuals incarcerated people in New York has plummeted, but the numbers who are abused by correction staff while in the jails has skyrocketed. Why?

We suggest the answer is that the administration has been fundamentally unable or unwilling to address the depths of supervisory and leadership incompetence at the Department of Correction ("Department"). As the *Nunez* monitor described it:

[T]he failure to properly supervise and actively coach Officers and Captains to improve their job performance, the failure to timely investigate and discipline Staff, and the failure to enforce accountability among Department personnel at all levels (i.e., line Staff, mid-level supervisors, Wardens and Chiefs) are key dynamics in understanding why the use and misuse of force are not decreasing.... [T]he lack of possessing the required skill sets of modern correctional managers, is most likely the main reason for this belief [ . . . ] *This cultural dynamic, which is better described as an occupational ideology, runs counter to modern and professional correctional practice.* Ultimately, these failures perpetuate the toxic culture of the Facilities discussed in previous reports. (Eighth Report, at 13-14) (emphasis supplied).

The overriding experience of the people who are incarcerated is that officers *instigate* confrontations needlessly, and *themselves* escalate even the smallest hint of verbal disrespect to violence. This is true up the chain of command. "More specifically, Staff are *often hyper-confrontational* and respond to incidents in a manner that is hasty, hurried, thoughtless, reckless, careless or in disregard of consequences." *Id.*, at 4. The profound hostility towards incarcerated people that fuels this "hyper-confrontational" management approach is reinforced daily by practice and policy, from the dehumanizing language routinely used by staff to the violent iconography of the chains and shackles of slavery that is normalized in "restraint desks." Most distressingly, despite the attention and resources given the Department to solve this problem in

recent years, the Monitor found that it “continues to identify the same problems, *none of which appear to be abating.*” *Id.*

The egregious failures of the Investigation Division to perform its core duty of identifying staff misconduct fuels this violence by effectively granting impunity through its inaction. In the last six months of 2019 *alone*, the Investigation Division blew the statute of limitations on 2,001 cases by delaying investigations. *Id.* at 132. The misconduct underlying those cases is now immune from any discipline—simply because of delay.

This is a five alarm fire, but the Department has not given it a five-alarm response. It speaks of “accountability” and “culture change” in public, and every few months gives a new brand name to some basic form of organizational management and calls that “reform.” But it has not demonstrated that its leadership, and in particular the wardens of its facilities, are held accountable for this rising tide of violence on their watch. In such a lawless atmosphere, the insubordination of staff that the Monitor reported – such as a staff member *physically assaulting a supervisor for intervening in an inappropriate use of force* (*id.* at 5)—is unsurprising.

We ask the City Council to continue to exercise its oversight authority to demand accountability from the Department of Correction for this appalling track record. Not only does this failure of governance have profound implications for the rule of law in the rest of our city, but the people who continue to be sent to Rikers Island continue to suffer. It will take all stakeholders in City government to close this chapter of our history, and protect people who are held in the Department’s custody.

I am happy to answer any questions which the Committee may have.



FROM THE DESK OF DONNA HYLTON

This is the culture that is Rikers Island. SHUT IT DOWN!

Good Morning Ladies and Gentlemen,

My name is Donna Hylton; Approximately 35 years ago (in 1985), as an adolescent, I was sent to Rikers Island to await pre-trial and trial proceedings.

I had never been in a jail prior; I had never had any interactions with law enforcement in the capacity of a so called "criminal" or "juvenile delinquent." My only interaction with the law was to report my being abducted, raped and abused by an older man; I was 16 years old.

That interaction left me distrusting and afraid; the Detective who handled my case carried out his own brand of justice. He raped me after taking me to the hospital to be treated for burns and contusions.

Even so, I did not believe all law enforcement officials and agencies were bad. I held on to the belief that there were some good people, good adults, in this world. Until I was detained on Rikers Island.

I was placed into "Protective Custody;" what is also called "Administrative Segregation" for a reason yet to be explained to me. I was isolated and alone, afraid, hungry and, experiencing nightmares which left me sleep deprived as I was afraid to go to sleep. I was 20 years old.

I told a Correctional Officer and some days later taken to the jails' social service unit to be screened. I cannot tell you what the screening process was; all I can say is that later a Correctional Officer brought me medication and told me I had to take the medication she was giving me. I did as I was told; it was more of an order, not advice. I later found out it was psycho-tropic medication/Sinequan. I became extremely delusional, more afraid, swollen and numb; I asked to be taken off the medication. Correctional staff told me NO and that I had to get a court order to be taken off.

I told my attorney and was told there was no such order and no such practice. Months later, I returned from court to be moved to the "Bing," aka "Solitary Confinement" because a cell search was conducted and a "weapon" found in my cell. I was moved 3 doors down and never given a fair or Just disciplinary hearing. I spent another 60 days, 3 doors down, in the "Bing."

All of this happened as I was going through the judicial process, fighting to be heard, fighting to understand, fighting for justice, fighting for my adolescent life. Before I was to be released from the "Bing," I was let out for the allotted one hour recreation and as my hour was almost over, another detainee (I think) was let into the recreation room with me. As I was about to leave the room, I caught a movement out of the corner of my eye that didn't seem right. The Correctional Officer on duty in the unit's control bubble motioned and I heard the doors lock. Strange. It was then I saw the other young woman fill her green plastic water cup with the 180\* water in the sink we use to make tea, coffee and soup.

It was instinct and plain fear that made me move and put my hands up, in defense. One second slower and, my face would have been burned beyond recognition. I did what came instinctively and naturally out of fear; I fought back.

Thirty-five years later and absolutely NOTHING has changed. When you enter Rikers Island you enter Gladiator School. It is prime breeding ground for violence, abuse, torture, rape; every anti-social, abnormal, inhumane and cruel behavior imaginable and not imaginable.



**TESTIMONY OF MELISSA CLARKE  
YOUTH JUSTICE AND CHILD WELFARE POLICY ASSOCIATE  
CHILDREN'S DEFENSE FUND-NY**

**Before the New York City Council**

**Committee on Criminal Justice**

**February 3<sup>rd</sup>, 2020**

The Children's Defense Fund-NY would like to thank you Chair Powers, and members of the committee on Criminal Justice for the opportunity to testify before you today. My name is Melissa Clarke and I am the Youth Justice and Child Welfare Policy Associate at Children's Defense Fund NY.

At Children's Defense Fund our mission and sole purpose is to ensure every child receives a healthy start, fair start, safe start, and moral start in life so that they are able to achieve a successful passage into adulthood with the help of caring families and communities. We provide a strong, effective, and independent voice for all children who cannot vote, lobby, or speak for themselves. Our unique approach to improving conditions for children combines research, public education, policy development, community organizing and advocacy activities, making us an innovative leader for New York's children, particularly in the areas of health, education, early childhood, child welfare and youth justice.

We serve on the Department of Correction's Youth Advisory Committee, and our Freedom School summer literacy program serves youth in the Administration for Children's Services' (ACS) detention facility, Horizon.

With that mission in mind, I am here to speak for the youth whom are behind the wall experiencing extreme violence while in the City's custody. The [Nunez Consent Judgment](#) called for a restructuring of policies, procedures, and staff training in order to address and reduce the use of excessive and unnecessary force against incarcerated adolescents. Whether we are looking at the violence by facility, or by age, the data shows that even with the systems' population decreasing, the number of violent incidents continues to be on the rise.<sup>1</sup>

**Violence on Rikers Island**

The Department of Correction (DOC) manages eight facilities on Rikers Island. On Rikers Island, individuals of all age groups are experiencing violence. However, young people between the ages of 16 and 18 are experiencing violence at a much higher rate than their older adult peers. DOC's use of force against adolescents and young adults rates this year reached their highest levels since 2016. In the jail

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<sup>1</sup> <http://tillidgroup.com/wp-content/uploads/2019/10/8th-Monitors-Report-10-28-19-As-Filed.pdf>, at 3-16.



for young adults (18 to 21), Use of Force against youth has increased 174%.<sup>2</sup> The Department's use of force against young people 18 years old is the highest--up 202% since 2016.<sup>3</sup>

More than half (56%) of the violent incidents are occurring in the housing areas, where incarcerated people spend most of their time, and where effective relationships between youth and corrections officers is essential.<sup>4</sup> This, however, does not exist; "[t]he Facility's level of disorder and rate of use of force are simply unsafe and the Department's limited efforts to reduce them have thus far been ineffective."<sup>5</sup> The monitor found that "staffing assignments and practices revealed virtually no consistency, meaning that staff and inmates do not have the opportunity to become familiar with each other which severely limits staff's ability to detect rising tension and prevent it from escalating into violence. Similarly, the lack of constructive coaching relationships between supervisors and line Staff have limited Staff's ability to develop and hone these essential skills."<sup>6</sup> This creates a frightening, hostile, and unnecessarily escalated environment for youth – and all people – on Rikers.

### **Violence in Horizon Juvenile Center**

The State's Raise the Age law allowed for us to begin to remedy a culture that has harmed our young people in unspeakable ways. As a result of this law, 16 and 17 year olds who were incarcerated on Rikers Island were relocated to Horizon Juvenile Center.

However, even with a declining youth population, the violence in Horizon continues to rise. Rates of use of force on adolescents continues to trend upward. The federal monitor reported that Use of Force by DOC staff against youth was higher in June 2019 than in any period since the adolescents were moved to Horizon in October 2018. The report states that "effective strategies are needed for supervising and supporting these youth to reduce the risk of harm they pose to other youth and staff."<sup>7</sup> As of June 2019, the monitor found that Horizon did not have an individualized behavior management program in place, facility staff lacked skills in developing effective relationships and working constructively with youth, the classification system was not properly implemented, and there was evidence that the facility was not using its room confinement policy correctly.<sup>8</sup>

It is essential that DOC make progress toward its obligation to move away from these failed tactics and move with more urgency to better support our young people. Thank you for holding this hearing and focusing attention on the lack of safety for youth in our City's jails.

If you have any questions concerning this testimony, please contact Melissa C. Clarke, Youth Justice and Child Welfare Policy Associate, at [mcclarke@childrensdefense.org](mailto:mcclarke@childrensdefense.org).

Thank you.

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<sup>2</sup> *Id.* at 24.

<sup>3</sup> *Id.* at 26.

<sup>4</sup> *Id.* at 28.

<sup>5</sup> *Id.* at 255.

<sup>6</sup> *Id.* at 253.

<sup>7</sup> *Id.* at 222.

<sup>8</sup> *Id.* at 223-24.



**TESTIMONY OF RAYMOND ORTEGA  
CHILDREN'S DEFENSE FUND-NY**

**Before the New York City Council**

**Committee on Criminal Justice**

February 3<sup>rd</sup>, 2020

Good morning everyone. My name is Raymond Ortega I am 18 years old and live in Far Rockaway Queens. I'd would like to thank you Chair Powers, and Chair Lancman, and members of the Committee on Criminal Justice for the opportunity to testify today.

I am a Research Assistant with the Youth Justice Collaborative Initiative and work alongside great organizations like the Children's Defense Fund. I am here today to speak about the violence youth experience in the City's jails and detention center.

The youth experience in jail is not much different than an adult. Teens are still experiencing the same levels of violence in Horizon as they did on Rikers Island. Even though moving the youth from Rikers to Horizon was done to provide a more structured and secure facility where young people could feel safe and protected, that has not been the experience of many young people.

Young people may experience situations where brutal force is used against them—even though they are teenagers. This shows a lack of concern for the traumatic experiences that young people may be facing every day.

So I am here today to ask all of the members of the Committee on Criminal Justice to investigate the harm being done to teenagers while incarcerated in these facilities. To seek out the answer to this issue in order to help our future policemen and women, doctors, lawyers, and teachers. To allow them to serve their time in the safe haven they were promised.

Thank you.

## **Testimony on Violence in NYC Jails**

**February 3, 2020**

**By Brandon J. Holmes, New York City Campaign Coordinator, JustLeadershipUSA**

I am testifying today on behalf of the #CLOSErikers campaign, and as a member of the New York City Jails Action Coalition. The #CLOSErikers campaign counted a substantial victory in October when the City Council voted to shrink the jail system by 75%, improve conditions for anyone still detained in City jails, and make parallel investments in community resources. But the jail population has been shrinking for years, with minimal progress towards eradicating the culture of violence and abuse within the Department of Correction.

Our leaders who have lived the hell of Rikers and other City jails - and many other advocates in this room - have always said that new buildings will not be sufficient to achieve the massive culture transformation that is urgently needed in New York City jails, nor will they come soon enough to save tens of thousands more people from abuse at the hands of the DOC.

As New York City celebrates being the least incarcerated big city in the nation, there has been little to no effort from the agency's leadership or the administration to confront the challenges of actualizing cost savings or hold individual officers who perpetuate violence accountable. The administrations' strategy to achieve a reduction in DOC staff through attrition is both lazy and dangerous. For decades, we've seen Correction Officers leave their work and struggle with mental health concerns, suicide attempts, and extreme levels of stress. Many choose to leave because they cannot bear to continue working in such a toxic environment, or witness the daily violence inside city jails. We must believe that anyone who can tolerate this culture of violence and abuse has adapted to it, and accepted its history of opposition to reform. As the Mayor and DOC leadership allow their staff to quit or collapse within their agency, there must be a better plan; a plan that identifies and incentivizes good behavior in order to truly transform our jail system.

In early 2018, #CLOSErikers campaign leaders called for the complete elimination of the Department of Correction - before several officers were indicted on sexual assault charges, before the Nunez Report confirmed a 98% increase in use of force in the past three years, and before the agency was operating at a ratio of nearly 2:1 staff to people in custody. In December of that same year, Survivors of Rikers Island released an Open Letter to Correction Officers. I will read an excerpt from this letter:

“ You may not know it, but we're fighting for you too. We know that this system dehumanizes you along with those who are detained, because a system that chooses punishment as its main goal and strategy then relies on you as the instruments to deliver that punishment. And we know that to carry out that role, day after day, degrades your humanity. Much like the human beings you guard, we understand that you are affected by the toxic environment you spend your days in. It is the failed leadership of the Department of Corrections and our elected officials that have allowed that environment to develop and persist. “

This Department of Correction is dominated by a toxic union which protects the legacy of officers who share a history of violence, abuse, and corruption who continue to fight to keep Rikers Island open and reject the vision of a smaller jail system. As an extension of the Mayor's administration, the agency must be held accountable for their failure to reform and improve the environment and conditions for incarcerated New Yorkers.

Over the past several months, we have appeared before the Board of Correction to ask how they may address the findings of Eighth Report of the Nunez Independent Monitor, filed on Monday October 28th.

Some of the findings of this report that are most concerning to us, and should be to the Council, are in my written testimony.

- On page 7, the report states that "...the Department has not shown itself capable of devising and implementing effective strategies to fully institutionalize the use of force reforms required by the Consent Judgment." p. 7
- On page 10, the report states that "the Department remains in Non-Compliance with four of the most consequential provisions of the Consent Judgment: (1) implementation of the Use of Force Policy; (2) timely and quality investigations; (3) meaningful and adequate discipline and (4) reducing violence among Young [People]
- On page 11, the report states that "The Department has not been able to keep pace with timely investigation of Staff misconduct and there is a backlog of approximately 6,815 investigations"
- And on page 22, the report states that "Compared to the [Use of Force] rate when the Consent Judgment first went into effect (3.75), which was concerning enough on its own, the average UOF rate for the Eighth Monitoring Period was 7.41, a 98% increase since 2016."

This last point is especially important, because Commissioner Brann has stated that this is not the same Department as it was five years. What does she mean by that, when it is, by this report, a Department in which officers use force TWICE as often as they did 3 years ago?

What will the Council do about the Department's continued and documented failures that cause harm to the people in their custody? Three specific questions I would ask today:

- 1) The Department was required to set up an early warning system to "identify as soon as possible Staff Members whose conduct warrants corrective action." They have set up the The Early Intervention, Support, and Supervision Unit (EISS). However, because of a lack of effective implementation, the report notes "While E.I.S.S. will ultimately need to be broadened to identify and offer support to additional Staff Members, at this juncture, the Monitoring Team hesitates to encourage expansion." What, then, can the Board suggest to address the obvious need - shown by the high and growing number of use of force incidents - to enroll more staff in a program like EISS?
- 2) Second, how will Council address the Department's backlog of approximately 6,815 investigations regarding staff misconduct?
- 3) And last, because of the Federal Monitor, the Department of Corrections is required to provide a report listing every pending disciplinary case and the officers involved. Will the Council request this report, and make it available to the public.

As this Department of Corrections opposes the elimination of solitary confinement; as this Department fails to comply with key components of the Federal Monitors Consent Judgment for the eighth year in a row, and as the Department puts individuals like Kalief Browder, Layleen Polanco, or 18 year old Nicholas Feliciano - who hung for 7 minutes as Corrections' staff neglected their duty - please, ask yourselves: is this an agency that has a role in a decarcerated New York City? How will they possibly reflect our values of ending mass incarceration and improving conditions for incarcerated people?

Brandon J. Holmes

## **Testimony on Violence in NYC Jails**

**February 3, 2020**

**By Herbert Murray, #CLOSERikers Campaign Leader**

When I was 21 years, I was arrested for a murder I did not commit. After two years in Rikers Island, and two trials I was found guilty and sentenced with 15 years to life. I served 29 years on a wrongful conviction.

During the time I was on Rikers Island, I was placed in 3 block. There were two televisions, 3 telephones, and 6 showers for about 120 residents. The limited access to phone calls and showers alone generated violence among the residents.

Officers would always escalate the violence between detainees, by responding with more violence.

The COs were very abusive when it came to Black and Brown residents. When two residents get into an altercation with each other, the COs would allow them to fight until someone got seriously injured and then the riot squad would be called in to break up fight. Any occasion when the riot squad was called, they came into the block hitting those who weren't even involved in the altercation.

New York City must hold all of its law enforcement agencies accountable, including the Department of Correction, in order to achieve the vision of a smaller, safer jail system. A system that respects the humanity and dignity of every individual behind those walls.





Close Rosie's 534 W 187<sup>th</sup> St. #7 New York, NY 10033

E-Mail: [closerosies@gmail.com](mailto:closerosies@gmail.com)

Web: <http://www.CloseRosies.org>

February 3, 2020

via Email: NYC Criminal Justice Committee:

**To:** Councilman Keith Powers<sup>[1]</sup> NYC Committee Chair<sup>[1]</sup> Committee on Criminal Justice

**cc:** Councilman Rori I. Lancman, NYC Committee Chair Committee on Justice Systems;  
Councilwoman Carlina Rivera; Councilman; Councilman Daniel Dromm; Councilman Robert Holden

**Ref: NYC Council Subcommittee on Criminal Justice Hearing on Violence on Rikers**

Dear Members of the Criminal Justice Committee:

Close Rosies welcomes the chance to testify today about violence on Rikers Island:  
specifically sexual violence.

In December of 2018 the Downstate Coalition vs Sexual Violence sent a letter to the Board of Correction<sup>1</sup> requesting (among other asks) that violations be issued for non-compliance to specific aspects of Chapter Five of the NYC Department of Correction's ("DOC") Charter: the Prison Rape Elimination Act ("PREA") local standards:

"...The Department ("DOC") is overwhelmingly out of compliance with the Standards for investigating and reporting data about sexual assault and harassment. The Board's careful analysis issued in September 2018 of DOC PREA Closing Reports revealed unconscionable failures in the way the Department conducted investigations into allegations of sexual abuse and harassment."

Since the time of our letter limited BOC/DOC response has been noted by our coalition:

- I. In March of 2019 a BOC meeting was held to review implementation of the local PREA.** Many of our coalition members appeared and presented oral

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<sup>1</sup> [Downstate Coalition for Crime Victims Letter to BOC re PREA Standards \(Dec 14, 2018\)](https://www1.nyc.gov/assets/boc/downloads/pdf/letter_from_downstate_coalition.pdf): link taken January 15, 2020: [https://www1.nyc.gov/assets/boc/downloads/pdf/letter\\_from\\_downstate\\_coalition.pdf](https://www1.nyc.gov/assets/boc/downloads/pdf/letter_from_downstate_coalition.pdf)

- and written testimony of non-compliance to the local and federal PREA standards.<sup>2</sup>
- II. Several Downstate members have continued to appear** at BOC meetings, City Council committees, Federal Civil Rights Commission hearings et al to comment on the DOC's continued non-compliance to the local and federal PREA standards in the interim.<sup>3</sup>

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<sup>2</sup> [Legal Aid Society Letter to the Board re PREA Standards Compliance](#) (March 26, 2019)

[Written Comments of the Crime Victims Treatment Center](#) (April 16, 2019)

[NYC Alliance Against Sexual Assault Letter to the Board](#) (April 22, 2019)

[NYC Jails Action Coalition Letter to Board](#) (April 22, 2019)

[NYC Councilmember Helen Rosenthal Written Testimony](#) (April 23, 2019)

[Bronx County District Attorney Darcel D. Clark Testimony](#) (April 23, 2019)

[Exodus Transitional Community Written Testimony](#) (April 23, 2019)

[New York County District Attorney Testimony](#) (April 23, 2019)

[Sylvia Rivera Law Project Testimony](#) (April 23, 2019)

[Scott Moffat Testimony](#) (April 23, 2019)

[The Bronx Defenders Testimony](#) (April 23, 2019)

[Lambda Legal Written Testimony](#) (April 23, 2019)

[Brooklyn Defender Services \(Brittany Cooper / Ms. T\) Testimony](#) (April 23, 2019)

[Brooklyn Defender Services \(Simone Spring\) Testimony](#) (April 23, 2019)

[Legal Aid Society Testimony re Strip Searches](#) (April 29, 2019)

[Black Women's Blueprint Written Testimony](#) (May 1, 2019)

[Legal Aid Society Prisoners' Rights Project Testimony](#) (April 23, 2019)

[Westchester County DOC Final Deputy Commissioner of Operations Leandro Diaz \(April 23, 2019\)](#)

[Westchester County DOC First Deputy Commissioner Louis Molina \(April 23, 2019\)](#)

[Cleary Gottlieb Letter to the Board \(May 10, 2019\)](#)

[Brooklyn Defender Services Letter to Board](#) (April 22, 2019)

<sup>3</sup> [Legal Aid Society Testimony re Strip Searches \(April 29, 2019\)](#)

[Legal Aid Society Letter to BOC re PREA Standards \(Nov 28, 2018\)](#)

[Legal Aid Society Letter to BOC re DOC PREA Report \(April 18, 2018\)](#)



- III. **A violation was NOT issued by the BOC** to the DOC for violation(s) of §§ 5-30 and 5-40 for Investigations and Data Collection and Review, respectively.
- IV. The Bronx District Attorney has yet to take ONE Rikers rapist to trial. In early spring of 2018 Darcel Clark appeared at the Downstate Coalition vs Sexual Violence (held monthly at the NY Attorney General's office) to discuss her prosecution of Sidney Wilson, a physician's assistant who is accused of at least 43 counts of rape on Rikers of his patients.<sup>4</sup> Last Thursday, January 28, 2020 his trial was delayed for yet another month. It appears the Bronx DA's office has NO intention of prosecuting this case that was investigated by former NYCDOT chief Mark Peters and his staff. We are tired of the unexplained delays and accommodation afforded this rapist by the Bronx DA.
- V. In March of 2019 the NYPD released data<sup>5</sup> detailing all of the sex abuse and harassment complaints reported to the NYPD after investigation by the myriad of city independent agencies tasked with investigating allegations

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[Legal Aid Society Letter to BOC re Continuing Violation \(Jan 31, 2018\)](#)

[Legal Aid Society Letter to the Board re PREA Standards Compliance \(March 26, 2019\)](#)

[Testimony of Kelly Grace Price \(Close Rosie's\) re DOC's Women's Initiatives \(March 12, 2019\);](#)

[Written Comments of Kelly Grace Price \(Jails Action Coalition / Close Rosie's\); Kelly Grace Price Written Testimony;](#) June 12, 2018;

[Written Comments of Kelly Grace Price \(Close Rosie's\) \(Nov 13, 2018\);](#)

[Testimony of Kelly Grace Price \(Close Rosie's\) re Sexual Abuse and Harassment Investigations](#) (October 9, 2018);

[Written Comments of Kelly Grace Price \(Close Rosie's\) \(Jan 8, 2019\)](#)

[Testimony of Kelly Grace Price \(Close Rosie's\) re PREA \(February 7, 2019\);](#)

<https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2019/February/BOC%20Meeting%20Testimony%20Feb%2012%202019.pdf>

[Kelly Grace Price \(Close Rosie's\) Testimony \(December 2, 2019\)](#)

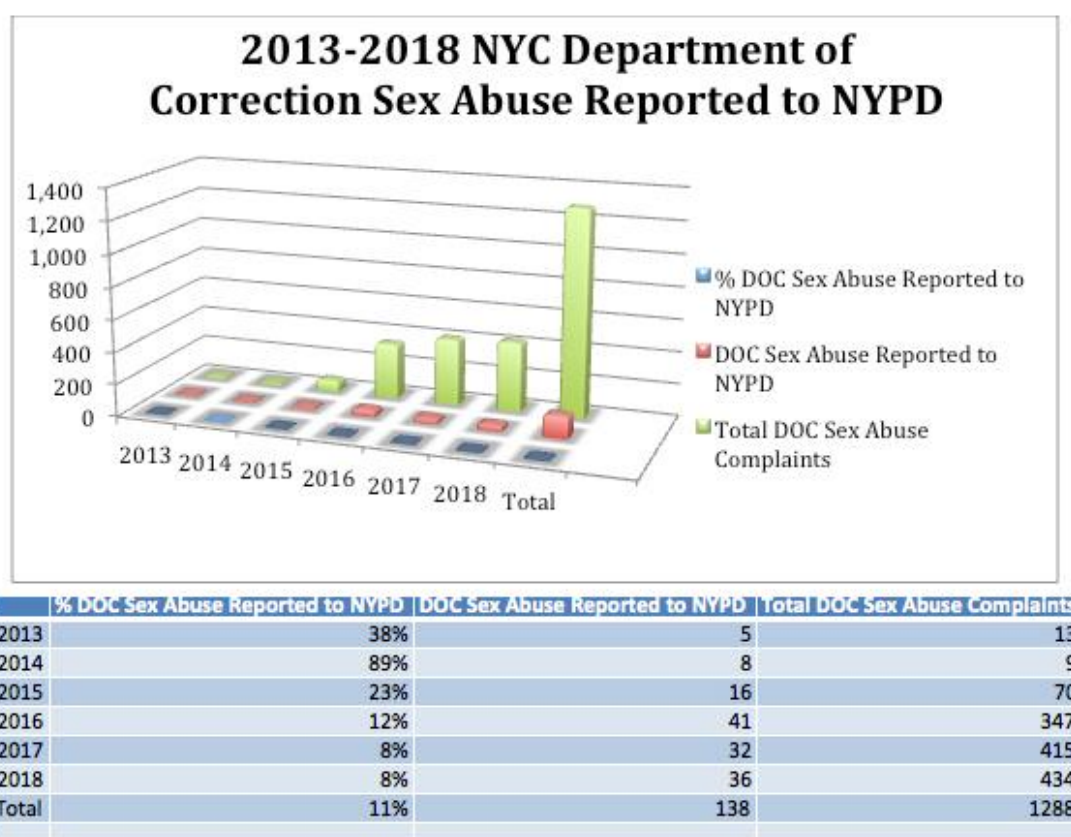
<sup>4</sup> "Rikers worker traded Popeye's chicken for sex with inmates: suit." [Kathianne Boniello](#): NY Post: July 3, 2016; linked January 30, 2020:

<https://nypost.com/2016/07/03/rikers-worker-traded-popeyes-chicken-for-sex-with-inmates-suit/>

<sup>5</sup> [NYPD Top Crime Data by Complaint Type: Open Data Portal](#): <https://data.cityofnewyork.us/Public-Safety/Rape-Data/u7ds-4335>.

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against staff members and other people who fall under their jurisdiction. There are a total of 71 NYC Agencies: of those only 20 reported complaints of criminal sex abuse/sexual harassment to the NYPD from 2006 to 2018. As per each Agency's independent Charter code each is responsible for investigating inter-agency crimes. The Charter<sup>6</sup> requires all criminal conduct to be reported to the NYPD but there appears to be nary any oversight structure established in any capacity within NYC government to enforce this reporting. The Department of Correction has grossly under-reported all complaints across every category of sexual violence to the NYPD for at least the past decade. **Here is how the numbers break down for DOC reporting to NYPD vs what we know about rates of sexual violence in our City jails:**



**What this means is that complaints of sexual violence from Rikers and our other City jails are not making it to the Bureau of Justice Statistics: so literally our voices are being choked by the DOC and other City Agencies that have jurisdiction over our bodies. Our rapes and sexual assaults aren't even being counted in the National yearly statistics, which are mandated to be fed to the Bureau of Justice Statistics.** The Federal Laws mandating crime data that BJS

<sup>6</sup> NYC Charter linked June 6, 2019: <https://www.amlegal.com/codes/client/new-york-city-ny/>

documents fall under: A. The [Justice Systems Improvement Act of 1979](#); B. [Public Law 96-157](#) (the 1979 Amendment to the Omnibus Crime Control and Safe Streets Act of 1968), and; C. [Public Law 90-351](#). **Following, NYC IS IN VIOLATION OF THESE Federal Mandates/ LAWS as multiple agencies—specifically the Department of Correction-- have not been accurately providing data to the NYPD to report to BJS.**

**VI. In November of 2019 the [DOC appeared to issue misleading statements about its success in implementing PREA by touting an audit of FEDERAL PREA STANDARDS at the Rose M. Singer Center](#) when it published a press release<sup>7</sup> that was picked-up and repeated in the press alleging false progress towards implementation.<sup>8</sup> The 'mock' audit referenced by the DOC in its press release had been executed by a federally-certified PREA auditor<sup>9</sup> but DOC brass erroneously stated this fact as evidence that it had fully-implemented PREA to the satisfaction of all standards. But all standards have not been met—in fact the 'mock' PREA audit only addressed the Federal Standards and not the local standards approved by the Board of Correction in November of 2016.<sup>10</sup>**

**VII. A local law was passed in December of 2018 by NYC Council and implemented in 2019 requiring reporting on sexual abuse and harassment incidents by the DOC.<sup>11</sup> The ultimate results of these legislative efforts (undertaken in part by members of our downstate coalition) appeared**

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<sup>7</sup> "A New York City Department of Correction detention facility has achieved compliance with the Prison Rape Elimination Act (PREA) for the first time ever, marking an important milestone in the agency's effort to eliminate sexual abuse for those in custody." September 10, 2019 Press Release: New York City Department of Correction: <https://www1.nyc.gov/site/doc/media/prea.page>

<sup>8</sup> "Sex abuse in NYC jails: Dept. of Correction says it's on the path of reform"; By [Chelsia Rose Marcus](#); New York Daily News; November 30, 2019; linked January 15, 2020; <https://www.nydailynews.com/new-york/ny-sex-abuse-city-jails-corrections-new-york-city-20191201-pat72zgmejesdkf64zvq2tggi-story.html>

<sup>9</sup> Mock PREA Audit report of Federal Standards on RMSC: July 2019; [https://www1.nyc.gov/assets/doc/downloads/pdf/Rose\\_M\\_Singer\\_PREA\\_2019.pdf](https://www1.nyc.gov/assets/doc/downloads/pdf/Rose_M_Singer_PREA_2019.pdf)

<sup>10</sup> [Final Rule Package](#) (Published November 10, 2016): linked January 15, 2020: [https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Rulemaking/2016-PREA/PREA\\_Rules\\_FINAL\\_FOR\\_POSTING\\_11.10.16\\_w\\_certification.pdf](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>11</sup> Int 0933-2018 (b): Requiring the dept. of correction to report on sexual abuse: Enacted January 20, 2019: Linked January 15, 2020: <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3509899&GUID=6F40B965-79E9-4019-A0DE-1B1FB6F0DAC2&Options=&Search=>

in October of 2019<sup>12</sup> but regretfully the data provided by the DOC is not entirely useful or fruitful. For instance: throughout the staccato data presented by the DOC there is not anywhere a tally of the total number of complaints made in the prior six months. There is a tally of the total number of complaints of sexual violence, rape, harassment and abuse made for which the investigations took OVER 90 days but not a tally of which investigations took UNDER 90 days.<sup>13</sup> At the last moments of the legislative process a caveat was added into the language of the legislation that only requires the DOC to report on investigations that took OVER 90 days. This language change (which cripples our efforts to have real data) is worrisome to this coalition: basic-level data reporting requirements haven't been provided.

**VIII. In October of 2019 a Federal Monitor released its eighth report<sup>14</sup> under court mandate to oversee the NYC DOC's progress in curbing violence on Rikers. The monitor is tasked with oversight over the DOC's practices for all persons detained under the age of 21.** While not inclusive of the entirety of DOC's PREA practices some of the revelations in the report regarding PREA IMPLEMENTATION & sexual assault are startling:

1. The number of PREA allegations for YOUTH under the age of 21 on the Rose M. Singer Center is at an all time-high. Since 2012 there have been TWELVE allegations of sexual abuse or harassment from people held on Rosie's between the ages of 18 and 21 and FIVE of these complaints occurred in the first six months of 2019. This is NOT an indicator of the DOC managing PREA implementation with even a modicum of success.<sup>15</sup>
2. "The key issues compromising the quality of the investigations are the long delays to interview accused staff and the absence of interviews with Staff witnesses (needed to provide essential contextual information about the allegation.)"<sup>16</sup>
3. Allegations of "Staff-on-Inmate" sexual abuse & harassment against youth

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<sup>12</sup> New York City Department of Correction Semi-Annual Sexual Abuse & Harassment Report January 1st, 2019 –June 30th, 2019; Linked January 15, 2020: [https://www1.nyc.gov/assets/doc/downloads/pdf/DOC\\_LL\\_21\\_of\\_2019\\_Bi-Annual\\_Report.pdf](https://www1.nyc.gov/assets/doc/downloads/pdf/DOC_LL_21_of_2019_Bi-Annual_Report.pdf)

<sup>13</sup> "Data related to investigations of allegations of sexual abuse and sexual harassment that concluded during the preceding six-month period..." IBID; p. 1.

<sup>14</sup> Eighth Report of the Nunez Independent Monitor: Eighth Monitoring Period January 1, 2019 through June 30, 2019; linked January 28, 2020: [https://www1.nyc.gov/assets/doc/downloads/pdf/8th\\_Monitor\\_Report.pdf](https://www1.nyc.gov/assets/doc/downloads/pdf/8th_Monitor_Report.pdf)

<sup>15</sup> Ibid: pp. 165.

<sup>16</sup> Ibid: pp. 167.

have doubled across all categories.<sup>17</sup>

Instead of addressing directly the issues raised by the Nunez monitor we were informed (during the January, 2020 Board of Correction meeting) that the discussion would be “taken offline” and held privately between DOC Brass and the BOC.<sup>18</sup>

- IX. RIKERS AND OUR CITY JAILS WILL NEVER BE SAFE UNTIL WE HAVE A CORRECT AND PROPER OVERSIGHT BOARD INSTALLED IN THE BOC. CURRENTLY THE BOC APPOINTMENTS HAVE BEEN MADE INCORRECTLY BY THE MAYOR STIFELING DISSENT, OVERSIGHT OF THE DOC AND ALLOWING CITY HALL TO CONTROL ALL VOTES, HIRES AND ACTIVITIES OF THE ENTITY MEANT TO KEEP THE DOC IN CHECK. VIOLENCE WILL NEVER BE CURED UNTIL THIS ISSUE IS CORRECTED.**<sup>19</sup> The City Council has not been given its rotating “appointing authority” to name new NYC Board of Correction Employees. See Kelly Price v NYC Board of Correction et al NY Supreme court complaint. We need the City Council to robustly advocate to bring back Hon. Bryanne Hamill. The mayor has been trespassing against the mandates of the NYC Charter and tipping the scales b/f important votes by our most precious DOC oversight authority.
- X.** BOC staff is 100% disenfranchised. [Please see Glassdoor.com reviews written by current and former BOC staff members](#). This lack of robust oversight needs to be cured before we move forward with any further rule-making or jail rebuild plan. We will not solve the crisis of violence in our City jails without robust oversight partners in the BOC.

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<sup>17</sup> Ibid: pp. 239.

<sup>18</sup> Testimony of Heidi Grossman, Deputy Legal Counsel NYC Board of Correction public meeting: January 14, 2020: minute 00:XX:00: <https://www1.nyc.gov/site/boc/meetings/jan-14-2020.page>

<sup>19</sup> Price v NYC Board of Correction:  
Amended Complaint: <https://medium.com/@gorgeous212/price-vs-nyc-board-of-correction-opposition-to-motion-to-dismiss-c437bd7eba5>  
Opposition to Motion to Dismiss: <https://medium.com/@gorgeous212/price-vs-nyc-board-of-correction-opposition-to-motion-to-dismiss-c437bd7eba5>

- XI. **TITLE IX and our jails:** Title IX is a federal civil rights law that was passed as part of the [Education Amendments of 1972](#).<sup>20</sup> Title IX applies to institutions that receive federal financial assistance from USED, including state and local educational agencies such as the NYCDOC and virtually every other metropolitan jail system that runs vocational rehabilitation and educational programs which are funded in whole or in part by the USED and run by the local municipal departments of education. ***Educational programs and activities that receive ED funds must operate in a nondiscriminatory manner:*** "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...." In NYC the current plan<sup>21</sup> to build borough jails for men and to put women/girls in one facility either in Queens or Manhattan flies in the face of federal Title IX standards and the Fourteenth Amendment's Equal Protection Clause. For instance: Of the top 25 zip codes that feed Rosie's population not one of them is from the neighborhoods surrounding the proposed Queens jail site for women.

It will be more difficult for families, friends and loved ones to visit women and girls in Queens than to visit men who are in their own boroughs. This enables people to be isolated and vulnerable and more likely to be targets of sexual assault while they are detained than men...Currently the rate of sexual assault reported on Rosie's is already higher than in the other facilities on Rikers that house men. Recently the NYCDOC release a report detailing that RMSC was responsible for 19.61% of all sexual assault, abuse and harassment complaints filed in the first half of 2019 even though Rosie's comprises less than 6% of the ADP of Rikers.<sup>22</sup>

Close Rosie's remains gravely concerned about the lack of candor by the DOC and lack of implementation of PREA standards to ensure the protection of people detained and incarcerated in our City jails from sexual violence; about the backlog of investigations and; the lack of transparent reporting. It appears at this point in time regarding PREA that the

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<sup>20</sup> Public Law No. 92-318, 86 Stat. 235 (June 23, 1972), codified at 20 U.S.C. §§ 1681-1688.

<sup>20</sup> [20 U.S.C. § 1681\(a\)](#)

<sup>21</sup> [New York City Borough-Based Jail System CEQR Documents, including the Final Scope of Work and the Final Environmental Impact Statement](#)

<sup>22</sup> [New York City Department of Correction Semi-Annual Sexual Abuse & Harassment Report January 1<sup>st</sup>, 2019 – June 30<sup>th</sup>, 2019](#): pp. 10.

same master is controlling both the watchdog and the watched.<sup>23</sup> We encourage further City Council independence on this issue. We welcome the new Executive Director of the Board of Correction, Margaret Egan, appointed as of January 6, 2020 and would like to encourage further collaboration between the City Council and the BOC regarding PREA implementation. Our requests are:

1. A committee be established to monitor PREA compliance comprised of City Council members, City Council Staffers, MOCJ staffers, DOC, BOC and community members.
2. A special PREA BOC hearing be scheduled by the City Council immediately
3. Further dedicated staff be hired by the BOC to specifically track and monitor PREA compliance.

This lack of action from the Department is unacceptable, and the victims of sexual abuse and harassment while in custody deserve better. TO BE CLEAR PREA WAS/IS A COMMUNITY PLAN THAT WE ALL WORKED TOGETHER TO SCRIPT, RATIFY AND TO APPROVE. PREA IS A LITMUS TEST FOR THE DOC'S ABILITY TO IMPLEMENT THE COMMUNITY'S LAWS AND REGULATIONS THAT HAS FAILED MISERABLY. PREA SHOULD BE CONSIDERED A RED FLAG FOR ANY CITY OFFICIAL LOOKING TO MOVE FORWARD WITH THE DOC TO IMPLEMENT FURTHER CHANGES. If there is to be accountability and an end to the too-frequent violence and abuse of persons confined in DOC custody, then accountability must begin with City Council leadership. The City Council and specifically the Criminal Justice Committee is in a unique position to demand that accountability. We welcome the opportunity to discuss these matters further.

Kelly Grace Price

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<sup>23</sup> "From the establishment of the Board until 1977, the mayor selected all nine members and appointed its chair. Consequently, the Board was only as independent and aggressive as the mayor wished, and a mayor who preferred seeming harmony, or to avoid public criticism of one mayoral appointee (the correction commissioner) by others (the Board), had the obvious opportunity to defang the Board. In practice, mayors have taken various approaches. For example, Rudolph Giuliani tried repeatedly to abolish the Board. Conversely, after riots raged throughout the department in October 1970, John V. Lindsay revived the Board by appointing William J. vanden Heuvel as chair, and tolerated, indeed welcomed, the Board as activist foil to the department, a move that lead to the "retirement" of the incumbent correction commissioner. **It was clear that allowing the mayor to appoint, and thus control, both the watchdog and the watched made little sense.** Accordingly, since the 1977 City Charter changes, the mayor has shared the authority to appoint board members with the City Council (the city's legislative body) and the presiding justices of the Appellate Division for the First and Second Judicial Departments (the two intermediate state appellate courts located in the city). Each appoints three members for terms of six years, with staggered expirations. Although the mayor appoints the chair, the arrangement is structured to avoid mayoral dominance. The practical result has varied." "The Role of Civilian Organizations with Prison Access and Citizen Members—The New York Experience," John M. Brickman; Pace Law Review; 11-18-2010; Volume 30; Issue 5; Fall 2010; linked January 28, 2020: <https://www.prisonlegalnews.org/media/publications/pace-law-review-prison-oversight-sourcebook-article-13-role-of-ny-civilian-orgs-2010.pdf>



<http://www.CloseRosies.org>

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**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Kelly Grace Price

Address: 534 W 137th St #7 NY NY 10033

I represent: Close Rosies

Address: www.CloseRosies.org

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Herbert Murray

Address: 616 Lyons Ave, Irvington N.J.

I represent: JustLeadershipUS

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Sandra Cardesa

Address: 167 Riverdale Avenue

I represent: JLUSA

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

*Appearance Card*

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

Name: BRANDON HOLMES (PLEASE PRINT)

Address: (Allica)

I represent: Just Leadership USA

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

*Appearance Card*

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

Name: Emily Turner (PLEASE PRINT)

Address: 2 Lafayette St

I represent: Board of Correction

Address: 2 Lafayette St

**THE COUNCIL  
THE CITY OF NEW YORK**

*Appearance Card*

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: 2/3/2020

Name: Darlene Jackson (PLEASE PRINT)

Address: Bront, NY 10472

I represent: Close Rikers / Jails Action Coalition

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms



**THE COUNCIL  
THE CITY OF NEW YORK**

*Appearance Card*

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: MARGARET EGAN - BOARD OF CORRECTION

Address: 1 CENTRE RM 2213

I represent: BOARD OF CORRECTION

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

*Appearance Card*

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: 2/3/20

(PLEASE PRINT)

Name: Jennifer Parish

Address: 410 Rector St, NY, NY 10006

I represent: Urban Justice Center Mental

Address: Health Project

**THE COUNCIL  
THE CITY OF NEW YORK**

*Appearance Card*

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Shari Vrod

Address: \_\_\_\_\_

I represent: New York County Defender Services

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Martha Grieco

Address: 360 E. 161st St. Bronx NY

I represent: Bronx Defenders

Address: 360 E. 161st St Bronx NY

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Deborah Lolai

Address: 360 E. 161st St. Bronx NY

I represent: The Bronx Defenders

Address: 360 E. 161st St Bronx NY

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: 2/3/20

(PLEASE PRINT)

Name: Mary Lynne Werlwas

Address: 199 Water St NY NY

I represent: Legal Aid Society

Address: 199 Water St NY NY



**THE COUNCIL  
THE CITY OF NEW YORK**

**Appearance Card**

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

**(PLEASE PRINT)**

Name: Deputy Commissioner Sarah Townsend

Address: \_\_\_\_\_

I represent: Dept. of Correction

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

**Appearance Card**

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

**(PLEASE PRINT)**

Name: Marshall Volk

Address: \_\_\_\_\_

I represent: NYC Department of Correction

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

**Appearance Card**

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

**(PLEASE PRINT)**

Name: Chief Hazel Jennings

Address: \_\_\_\_\_

I represent: Dept. of Correction

Address: \_\_\_\_\_

**Please complete this card and return to the Sergeant-at-Arms**

**THE COUNCIL  
THE CITY OF NEW YORK**

**Appearance Card**

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

**(PLEASE PRINT)**

Name: Chief of Staff Brenola Cooke

Address: \_\_\_\_\_

I represent: Dept. of Correction

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

**Appearance Card**

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

**(PLEASE PRINT)**

Name: Commissioner Cynthia Brann

Address: \_\_\_\_\_

I represent: Dept. of Correction

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

**Appearance Card**

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

**(PLEASE PRINT)**

Name: Sarita Daftary

Address: 1900 Lexington Ave

I represent: Anna Pastorella

Address: \_\_\_\_\_



**THE COUNCIL  
THE CITY OF NEW YORK**

**Appearance Card**

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: 2/3/2020

**(PLEASE PRINT)**

Name: Brandon Holmes

Address: 1900 Lexington Avenue

I represent: JLUSA

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

**Appearance Card**

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

**(PLEASE PRINT)**

Name: Candice AKA Solitary Survivor

Address: 90 Maple St.

I represent: J.A.C. - Jails Action Coalition

Address: 40 Rector St.

**THE COUNCIL  
THE CITY OF NEW YORK**

**Appearance Card**

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

**(PLEASE PRINT)**

Name: Brooke Menschel, Civil Rights Counsel

Address: \_\_\_\_\_

I represent: Brooklyn Defender Services

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

**Appearance Card**

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

**(PLEASE PRINT)**

Name: Videl Gamar

Address: \_\_\_\_\_

I represent: JLUSA

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

**Appearance Card**

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

**(PLEASE PRINT)**

Name: ZACHARY KATZ NELSON

Address: 121 6TH AVE NYC 10013

I represent: LIPPMAN Commission

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

**Appearance Card**

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: 2/3/2020

**(PLEASE PRINT)**

Name: Melissa Clarke

Address: \_\_\_\_\_

I represent: Children's Defense Fund NY

Address: 2/3/2020

**Please complete this card and return to the Sergeant-at-Arms**



**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: 2/3/2020

(PLEASE PRINT)

Name: Raymond Ortega

Address: \_\_\_\_\_

I represent: Youth Justice Collaborative

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: DONNA HYLTON

Address: 521 ST MARKS AVE BKLYN NY 11238

I represent: A Little Piece of Light

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: DONALD R. POWELL

Address: 17 BATTERY PL 8TH FL NYC 10004

I represent: EXPCHEMIS

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

**Appearance Card**

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: 2/3/20

(PLEASE PRINT)

Name: FRED FUSCO

Address: \_\_\_\_\_

I represent: COBA

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

**Appearance Card**

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Alexa Adams

Address: 40 Rector St.

I represent: Urban Justice Center Mental Health

Address: \_\_\_\_\_ Project

**THE COUNCIL  
THE CITY OF NEW YORK**

**Appearance Card**

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☐ in favor ☐ in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Minister Dr. Victoria A Phillips - Ms. V

Address: 40 Rector St. NY NY 10006

I represent: Mental Health Project Jail Station Coalition

Address: 40 Rector 9th floor

Please complete this card and return to the Sergeant-at-Arms