



New York City Jails Action Coalition

c/o Urban Justice Center
40 Rector Street, 9th floor
New York, NY 10006

February 10, 2017

BY E-MAIL

NYC Board of Correction
1 Centre Street, Room 2213
New York, NY 10007

Dear Members of the Board of Correction:

We applaud the Board for issuing a notice of violation regarding the placement of young adults in Enhanced Supervision Housing (ESH) and look forward to hearing the Board's plan for addressing Department of Correction (DOC) misuse of emergency variance requests.

In advance of the February 14 Board meeting, we write to share our concerns regarding the DOC's failure to provide information and to participate appropriately in the January Board meeting as well as our frustration regarding Board members' meeting attendance.

Lack of DOC Transparency and Responsiveness to the Board

We are troubled that the DOC continues to evade scrutiny regarding its disturbing restraint and isolation practices by withholding information from the Board and the public. The following information was requested during Board meetings, but to our knowledge, has not been provided by the DOC. We ask that you require the DOC to provide this information and that you make it available to the public:

- Questions that were asked of individuals during interviews at the Brooklyn Detention Center lockdown in September 2016;¹
- Questions asked during assessments to place young adults into Secure and/or ESH;²
- Results of research conducted on sound correctional policies concerning restrictive housing settings nationally;³

¹ During the September 13, 2016 Board meeting, Bureau Chief Gumusdere said that he would provide the Board with this list of questions.

² During the January 10, 2017 Board meeting, in response to a question from Board Member Hamill, Deputy Commissioner Saunders indicated that DOC could share this information.

³ During the November 15, 2016 Board meeting, Deputy Commissioner Grossman asserted that the form of restraint desks used in ESH is used in other jurisdictions.

- DOC’s “full analysis” of incarcerated individuals who re-infracted during their stay in punitive segregation or in the 7-day period thereafter;⁴

In addition, we believe that DOC should share the following information to assist the public in responding to its proposals:

- Current DOC policies on ESH and West, including operation orders, directives, due process procedures, and other materials including operating manuals and training documents;
- Current directives on the Secure Units, Transitional Restorative Units, and Second Chance Housing Units;
- Preliminary and/or final results and recommendations from the Vera Institute of Justice (Vera) concerning its study of segregated confinement in DOC; and
- Preliminary and/or final results and recommendations from Vera concerning the adolescent and young adult plan.

The Jails Action Coalition has requested from DOC directly the policies and directives described above and has received no information, documentation or even a reply to that request.

The DOC’s abrupt departure from the January 10 Board meeting prevented the public from receiving updates on health and mental health access and visiting. Such disrespectful behavior should not be tolerated. We urge the Board to state clearly at the upcoming meeting its disapproval of the DOC’s action.

Board Member Attendance

We are also disturbed that Board members routinely leave meetings early. At almost every meeting, only a few Board members are present for the public comment period. We recognize that Board members have other obligations and may not be able to attend the entirety of every meeting. However, the Board only meets nine times a year; the schedule is set forth a year in advance; and the meetings usually last no more than three and a half hours. We believe that it is reasonable for Board members to schedule time from 9 a.m. to 1 p.m. on the nine Tuesdays a year that the Board is scheduled to meet and, thereby, to be present for the entire meeting.

At the January meeting, a JAC member presented the enclosed statement from a transgender person who was recently released from the City jails. This information from a person with firsthand experience is relevant to the Board’s work, especially given the precarious nature of transgender housing, and Board members should consider it. At other meetings family members testified during the public comment period about degrading treatment during visits

⁴ During the November 15, 2016 Board meeting, Chief of Staff Thamkittikasem responded to Vice-Chair Cephas’ question with an assurance that the Board would receive a “full analysis” of “inmates who re-infracted during their stay in PSEG or in the 7-day period thereafter.”

– another topic that should be of interest to Board members – yet only a few Board members were present.

We hope that you will address these concerns to promote greater transparency and accountability for the DOC as well as greater public confidence in the Board.

Sincerely,

NYC Jails Action Coalition

cc: Martha King, Executive Director

Enclosure

Anonymous Statement Presented at January 10, 2017 Board of Correction Meeting

As a trans-woman at Rikers Island, I was constantly subjected to adverse treatment from both inmates and C.O.s. From the moment I was booked, I experienced negative treatment based on my transgender status. The process extended over the course of two days to complete uncomfortable medical examinations to confirm I was transgender and to decide which building I would be placed in. Transgender Housing was not offered to me during the initial intake process. The only trans-housing unit available to DOC inmates is for detainees, leaving sentenced transgender inmates without the option. Identifying as and having the appearance of a female while housed within a male facility subjects you to all sorts of discrimination and sexual harassment. I have been harassed by officers and inmates, for example, during institutional strip searches.

This gets to the issue of “passibility.” On the outside, I “pass” as a woman and do not have to deal with outright discrimination because most people are unable to tell I am transgender. Within a male facility, the experience is vastly different. C.O.s would humiliate me and joke around while they made me strip. In OBCC, I have had C.O.s make me strip multiple times while under supervision of a Captain, for no apparent reason. They’d use excuses to get me to strip more than other inmates, such as making me squat and couch to check for drugs. The harassment was more prevalent from female C.O.s however, who would verbally harass me regularly. I was constantly misgendered by being called the incorrect pronouns throughout my time on Rikers. This resulted in my need to utilize Mental Health services. This kind of harassment and disrespect is very triggering, and when endured on a constant basis it can prove to be damaging.

One female C.O.s liked an inmate in OBCC that I was close with, and would verbally assault me as a result. She threatened to mace me one day while clearly and loudly stating, “You’re a man, I’m a female.” There have been times when I was carelessly removed from Protective Custody and placed in General Population. Shortly after one of these incidents, I was sent back to General Population where I was involved in an altercation with another inmate—again due to my gender identity. During this incident, I was cut on the arm with a razor. Officials should take into consideration how susceptible transgender inmates are to abuse. In doing so, they will understand why we

should not be placed in GP. I shouldn't have been sent to GP and it took a violent incident for them to send me back to PC even after I made multiple requests.

However, Protective Custody did not offer me the safety that it should have. Myself and other inmates who were part of the LGBTQ community within PC were constantly harassed and attacked by other PC inmates. I have been raped and sexually assaulted in PC by another inmate as a result of negligence on the officers' behalf. I filed multiple grievances about incidents where this individual sexually harassed me on multiple occasions and how I feared for my safety. In a sense, I foresaw this incident occurring. All of my grievances were disregarded. One morning, the individual had an officer open my cell and he proceeded to rape me. Camera surveillance shows the incident occurs. He raped me in my cell in Protective Custody, the place where my safety is supposed to be a priority. All of these incidents happened while C.O.s were on duty. I was sent to Bellevue Emergency Medical Center to undergo rape evaluation, which included medical treatment and evidence collection. It was definitely an emotional process.

These were not issues unique to my experience at Rikers. There was another inmate in PC named [Mr. O] who constantly harassed the transgender inmates in the housing area. [Ms. P], another trans-woman in PC at the time, warned the Captain about [Mr. O] and that she felt unsafe. The Captain did nothing and told her that we'd be fine. Not long after that, [Mr. O] assaulted [Ms. P] in the bathroom with a metal knob, just like we had warned the Captain. She suffered severe injuries, fracturing her eye socket and breaking her nose. Things like this shouldn't be allowed to happen, and when they do occur they should not be so easily disregarded by the DOC.

I have been placed in the same housing units with people I had previous altercations with; it makes no sense. They put rival gang members into PC and the tension disrupts the order within the house. If someone is placed in PC and wants to be removed, they know that fighting someone will get them transferred. The LGBTQ inmates are easy targets. What's worse, if there is a fight, we get sanctioned too. When [Mr. O] assaulted [Ms. P], myself and two other transgender females tried to defend her and got sanctioned for getting involved. This can add time onto your sentence, costs \$25-\$50, and can get you transferred to punitive segregation (the box).

The majority of C.O.s don't understand trans-culture of the needs of trans-inmates. Legally, we can get hormones at Rikers, but they aren't the same dosage as you receive on the outside. I don't grow facial hair, but other trans-women need razors in order to take care of their hygienic needs. We aren't allowed to wear women's underwear or clothing, which are things needed to alleviate the symptoms of a form of dehumanization when those around you make every effort to strip you of your gender identity. The showers are not private and both C.O.s and inmates have often come inside to look at me while I'm showering. I am misgendered when addressed by other inmates or C.O.s, called "He" or "Mr." There is an immense lack of knowledge, understanding, and respect.

Having experienced the injustices that occur on Rikers Island first hand, my intentions are to advocate for better conditions within these facilities. There are good people at Rikers who want to change it for the better. During my time inside I talked with C.O.s who were not as ignorant or understood what we go through. They were part of a small group of individuals who took the Care, Custody, and Control of every inmate seriously. Sentenced inmates should be allowed in the Trans Housing Unit or there should be a separate Trans Housing Unit available to sentenced inmates. As a Protective Custody inmate, I shouldn't have to walk the hallways with GP inmates. All it takes is a split second for someone to cut you or kill you. These precautions seem obvious, however, they are not taken. The C.O.s are unprofessional and don't take their jobs seriously. Some type of educational orientation program about the needs of trans-inmates—just like there is for dealing with gangs—may help educate the C.O.s and allow them to help us. There should be penalties for C.O.s who don't do their job or don't pay attention to the needs of the inmates they are employed to supervise equally. Every day, there are trans inmates who are subjected to the cruel treatments that I endured at Rikers. If people are informed they may change their ways. Until there is a concerted effort from the Department of Corrections and those who work within it, those issues will remain.