



TESTIMONY OF:

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BROOKLYN DEFENDER SERVICES**

Presented Before

The New York City Council Committee on Legal Services and Committee on Mental Health, Developmental Disabilities, Alcoholism, Substance Abuse, and Disability Services

In relation to access to court facilities for people with disabilities

June 23, 2016

My name is Riley Doyle Evans and I am the Jail Services Coordinator for Brooklyn Defender Services. BDS provides legal services to tens of thousands of people in Brooklyn each year in criminal, family and civil court proceedings. BDS deeply appreciates the Council's ongoing efforts to examine and take on issues that impact our criminal justice system. We also commend the work of New York Lawyers for the Public Interest (NYLPI) in uncovering violations of the Americans with Disabilities Act (ADA) in New York City Courts. Thank you for the opportunity to share our perspective.

The experiences of Brooklyn Defender Services clients and their families in Kings County courthouses comport with the findings delineated in NYLPI's *Accessible Justice* report. The more disturbing reports BDS has received involve confiscation of assistive devices (canes, walkers and crutches) by police, court officers and corrections officers during the booking process. The health and safety of people who rely on assistive devices for mobility is put in serious jeopardy each time they are deprived of accommodations. In one recent case, a client was produced to arraignment after spending three days in the Emergency Room with a broken leg. He was produced in Court in hospital garments, without shoes and without a cane or walker to help stabilize his unsteady gait. The prosecution in this case agreed to our client's release. It took about 10 minutes with help from BDS staff for him to navigate his way out of the courthouse. No accommodations were provided to ensure his safe travel from the courthouse, so BDS staff were forced to secure a taxi for him to get home.

In other cases, our clients have suffered falls when their assistive devices were confiscated, have endured delayed arraignments as a consequence of inoperable elevators, and have been forced to utilize bathrooms in court houses that do not accommodate their needs, which is dangerous and unhygienic. Additionally, courts and police have in some cases failed to provide toileting supplies to

people with paralysis – either because of unwillingness or a lack of supplies on hand – a profound insult to basic human dignity. It is imperative that the City take urgent measures to accommodate people with disabilities who pass through the court system through structural repairs, updated policies and procedures for court staff, monitoring of compliance with said procedures, accountability when NYPD, court officers, correction officer or other staff violate policies, and public reporting about corrective action taken.

In addition to these measures, Brooklyn Defender Services supports expansion of Health and Hospitals' initiative to staff medical providers in the pre-arraignment screening process. These providers can more appropriately identify individuals' needs, advise court staff regarding appropriate accommodations and move to hospitalize individuals with serious medical conditions who cannot be safely processed in court houses. The initiative has been successful in Manhattan, and we are eager for our clients in Kings County Criminal Court—America's busiest courthouse—to be similarly served. We hope the expansion of this pre-arraignment screening will prevent incidents of seizures, diabetic shock and other serious, but preventable, medical conditions which occur too often.

We also urge the City to ensure that family members, attorneys, and members of the public are accommodated in court houses. Family members serve an integral role in supporting our clients during court proceedings. In many instances, the presence of family members in court is the most important factor in securing release on recognizance during arraignment. Family and community members who rely on assistive devices for mobility, particularly wheelchairs, face difficulty navigating courthouses. For example, in Kings County Supreme Court, only some courtrooms have a space for wheelchair users, and it is located in the front row, which is typically reserved for attorneys. There are no automated doors to courtrooms, restrooms or other spaces, and signage for accessible entrances or passageways is lacking. Inability or discouragement from attending court appearances because of access issues places an unfair burden on our clients and has the potential to negatively affect the outcome of their cases.

Finally, we urge the Council to broaden the scope of your inquiry to review conditions for people with developmental and intellectual disabilities, hearing impairments and language access concerns, as well as psychiatric disabilities. People with developmental and intellectual disabilities are at tremendous risk of victimization in custody, coercion by law enforcement during arrest and arraignment and impaired understanding and ability to self-advocate during court proceedings. Principally, we believe these individuals should be promptly diverted from the criminal justice system and offered services. If they must endure legal proceedings, they should be accommodated throughout. In the context of civil and family proceedings, people with intellectual impairments and developmental disabilities suffer discrimination, including unwarranted removal of their children – a practice BDS is presently challenging through litigation.

Individuals with hearing and visual impairments must also be accommodated during legal proceedings. Presently, court proceedings are often delayed or inappropriately conducted for people with hearing impairments due to inadequate sign language interpreters, or a lack of understanding about the necessity to accommodate people who are hard of hearing by speaking more slowly and loudly. Furthermore, legal services providers should receive funding in order to ensure they can hire SLI

and language interpreters and are compensated for the stop-gap measures they take when the court system fails to accommodate clients with any number of disabilities.

Similarly, we urge the Council to expand the scope of your investigation to include conditions in city jails. People with serious physical disabilities in city jails are warehoused in a decrepit building at North Infirmity Command, (NIC), the jail housing people with serious medical needs, where there is almost no access to programming. These individuals largely rely on one another to navigate the jail or conduct activities of daily life. Because there are no assigned assistants, people with disabilities are often forced to pay for assistance with limited commissary they may have, or suffer neglect from staff. Presently, neither DOC nor Correctional Health Services affirmatively identifies people with developmental and intellectual disabilities. As a result, people with such impairments are victimized in jails, are more often subjected to punitive segregation because they cannot understand or follow jail rules, and suffer with particular severity the consequences of this punishment.

The New York Criminal Justice Agency (CJA) has conducted important research tracking demographic data of people passing through the criminal justice system. That research suggests that after the emergence of broken windows policing, the average age of people arrested saw a marked trend upward. Whereas previously the average age of someone arrested was between 26 and 35 (tracking the most typical age of criminal behavior), increased enforcement of “quality of life crimes” has resulted in substantially more older New Yorkers with disabilities and chronic medical conditions coming in contact with the criminal justice system – primarily for low-level offenses.¹ While we support the city’s efforts to comply with federal law in making courts more accessible, we must also keep an eye toward ensuring that our criminal justice system is not utilized inappropriately and to the detriment of public health.

Once again, thank you for investigating this important issue. Brooklyn Defender Services is eager to work with the Council to ensure that all people who interact with the court system are treated humanely and in compliance with the law.

If you have any questions about this issue or others, please feel free to contact me at rdevans@bds.org or (718) 254-0700 ext. 225.

¹*The Impact of Quality of Life Policing,* Freda F. Solomon. August 2003. Available at <http://www.nycja.org/library.php>.