



TESTIMONY OF:

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Presented before

The New York City Council Committees on Women and Fire, Correction, & Criminal Justice
Oversight Hearing Examining the Unique Issues Facing Women in City Jails
& Intro 0899-2015

A Local Law to amend the administrative code of the city of New York, in relation to requiring
the Department of Correction to report on the Rikers Island nursery program.

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My name is Kelsey De Avila and I am a Social Worker in the Jail Services division at Brooklyn Defender Services. Thank you for this opportunity to address the Council. My testimony will address a range of issues which impact our female clients who are incarcerated at the Rose M. Singer Center (RMSC, or “Rosies”) on Rikers Island, including a number of problems related to the nursery program. We support the adoption of intro 0899, and encourage the Council to go even further in its oversight of the women’s jail.

Presently, our city jails fail to provide services to address the multitude of issues that specifically impact women. When compared to their male counterparts, our female clients who are incarcerated are more likely to suffer from a mental illness (recently more than 70%) and chronic medical conditions; they are more likely to be unemployed or underemployed; they are much more likely to have histories of trauma and to be survivors of sexual and physical abuse; they are more often the primary caretakers of children while in the community; and horrifyingly, they are much more likely to experience sexual abuse while incarcerated. Rather than receiving targeted services and programming to address these serious and wide-ranging issues, our clients at Rosies frequently experience triggers of Post-Traumatic Stress Disorder and new traumas. Notably, the bulk of the top charges that bring women into contact with the criminal justice system may be related to histories of drug and alcohol addiction – a clear indication that the War on Drugs continues to wreak havoc in the lives of the clients, families, and communities we serve.

The programming that is available at Rosies is inconsistent and poorly promoted – most of our clients report learning about available programs through word-of-mouth. Programs may also be inaccessible for many women because they are only offered in certain units, or require an escort. Escorted movement throughout the jail may be wise to ensure safety, however, chronic understaffing means that escorts are often unavailable, limiting access to programming, medical and mental health care, and delaying counsel visiting.

Visiting

The visiting room at Rosies includes space for women to play with their children. However, this room is open at the discretion of the officer, which means not every mother and child have the opportunity to use it. To add, for the last several months, water has been leaking from the ceiling gathering in a putrid puddle, molding toys and books, and rendering the space unusable. Despite offers from Hour Children to replace toys and beautify the space, the Department has failed to fix the leak or repair the room. Instead, DOC has exerted significant resources pursuing rule changes which would limit contact between incarcerated women and their families.

Staff Sexual Abuse

Sexual abuse by staff of women at Rosies has become endemic and must be an urgent priority of the council. According to court documents filed by Public Advocate Letitia James, your Department of Correction has failed to transmit reports of sexual assault to the NYPD for investigation in 114 of 116 cases, including 61 that were allegedly carried out by Rikers staff, which is disturbing and shameful. Our jails should be subject to oversight which go above and beyond the Prison Rape Elimination Act (PREA): camera coverage should be expanded and include particularly dangerous places like transport buses; meaningful investigations must take place immediately; staff must be held accountable promptly; and most importantly we need to ensure the protection of the survivor.

Pregnant and Incarcerated

One of our clients is a 16 years old sharing a cell with a pregnant woman. The pregnant woman was in pain and asked our client to get her some water. The officer told our client that the pregnant woman needed to do it herself. The officer did not use the opportunity to get help or alert medical staff. Instead, an argument arose and our client received a ticket, or infraction, for disrespecting staff when she advocated for this woman to get attention. Officers need to be properly trained to work with pregnant women; we can't allow this kind of mistreatment towards people to go unnoticed; pregnant women should be housed together to ensure better access to programs, medical attention and other resources.

New Mothers

With regard to the Nursery unit, we echo the comments and testimony offered by others including the Legal Aid Society and Hour Children. Maintaining parental bonds is essential to the well-being of children and mothers alike, and the positive impacts will be felt beyond the jail

in communities throughout the city. The Nursery program is an opportunity for women to receive parenting resources and support, which should continue for both the mother and child after the program.

We are encouraged by reports that denials to the Nursery have slowed, however, we are hopeful that the provision in Int 0899 requiring reporting on reasons for denials will eventually yield greater approval rates. One major criterion for denial is previous ACS involvement. Based on our experience representing parents in Family Court, we know that the range of allegations constituting “abuse and neglect” is extraordinarily broad and should not be grounds for denial. For example, having had a dirty house has no relationship to one’s ability to parent in the nursery setting. Timeliness of application processing should also be scrutinized, and should be included in the bill. Applications for placement to the nursery should not take months to process, as has been the case in the past. Such delays are contrary to the very purpose of the program, namely to maintain mother-child bonds. The issue is not solely one of facility capacity; the Nursery can hold up to fifteen women, and on my last visit, held only four.

We recently represented a client who had a 6 month-old child and was breast feeding at the time of her arrest. She was incarcerated pre-trial and was not told by DOC how long she and her child would be separated before being approved to co-reside at RMSC. We’ve received information from DOC staff that the approval process can take up to four months. There should be little to no gap of separation from a mother and their child. Such separation can be damaging to the child’s development and dangerous to a mother’s mental health. Among the many risks is the onset of post-partum depression, which First Lady Chirlane McCray has described as a major concern for this Administration. We also know the positive benefits breastfeeding has on the mother and child. The New York City Department of Health and Mental Hygiene recommends it and offers support to breastfeeding women in the community, yet DOC apparently does not make it a priority. The approval process needs to be expedited and the presumption should be to allow women and their children to participate, unless they present a serious threat to physical safety.

Mother-child bonding does not cease to be important on the child’s first birthday, yet the Nursery Program is only available during this first year of infancy. The Nursery Program should be expanded to allow children to remain with their mothers through their entire infancy as is permitted in several state prison systems, or even longer - through their pre-school years - as is permitted in many other countries’ correctional systems. At the very least, mothers who are serving sentences at Rosies that only exceed their young children’s birthdays by a few months should be allowed to stay in the program to prevent separation prior to re-entry. Additionally, the Council and the Administration should dedicate more resources to mothers in the community, including by investing in re-entry assistance, parental support, education, and job-placement assistance for mothers who come into contact with the criminal justice system.

Illegal and Unconscionable Shackling of Pregnant Women

Finally we implore the Council to immediately require that the Department adhere to existing state law (Correction Law 611) prohibiting shackling of pregnant women. Currently, pregnant women who are taken to community hospitals for treatment are shackled at their wrists

and ankles, with chains around their waists. Even when women receive abdominal surgeries, they are shackled at the hospital and during transport. This practice is illegal, inhumane and unnecessary, and poses extreme risk to the health of the mother and her pregnancy.

Conclusion

The Council has a responsibility to ensure the safety of all New Yorkers. The abuse and particularly the sexual violence taking place in the jails is an emergency and it is unacceptable. Platitudes like “reform takes time” are an insult to people and families who are suffering now. The vast majority of the women at Rosies simply should not be in jail – they are there simply because they are too poor to pay bail. To expose these women to a regime of sexual violence and abuse simply because they are poor is so morally abhorrent as to shock the conscience. The Council should prioritize access to services, alternatives to incarceration, and an end to pre-trial detention in all but the most serious cases.

Thank you for your consideration of my comments.