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Presented before the New York City Council

Committee on Criminal Justice

Oversight Hearing on Mental Health Care in New York City Jails.

September 23, 2026

My name is Danielle Regis, and I am a Senior Supervising Attorney in the Mental Health Representation Team of the Criminal Defense Practice at Brooklyn Defender Services (BDS). BDS is a public defense office whose mission is to provide outstanding representation and advocacy free of cost to people facing loss of freedom, family separation and other serious legal harms by the government. I want to thank the Committee on Criminal Justice and Chair Brooks-Powers for holding this hearing on mental health care in New York City's jails.

For 30 years, BDS has worked, in and out of court, to protect and uphold the rights of individuals and to change laws and systems that perpetuate injustice and inequality. After 29 years of serving Brooklyn, we expanded our criminal defense services to Queens. We represent over 40,000 people each year who are accused of a crime, facing the removal of their children, or facing deportation. Our staff consists of attorneys, social workers, investigators, paralegals and administrative staff who are experts in their individual fields. BDS also provides a wide range of additional services for our clients, including civil legal advocacy, assistance with the educational needs of our clients or their children, housing and benefits advocacy, as well as immigration advice and representation.

BDS is proud of having played an important role in the creation of the Brooklyn Mental Health Court in 2002. The Brooklyn Mental Health Court works with people accused of crimes who have serious and persistent mental illnesses, linking them to long-term treatment as an alternative to incarceration. BDS continues to collaborate with this court to advocate for its expansion to meet the needs of more people, including people with intellectual disabilities and people who have previous criminal legal system involvement.

DEFEND • ADVOCATE • CHANGE

BDS also works to address the urgent civil rights and conditions of confinement issues for the people we represent who are incarcerated. We work to secure access to essential medical and mental health treatment, educational services and programming and to ensure the safety of those we represent. We do this through individual administrative advocacy, participation in Board of Corrections hearings and numerous working groups. We also monitor and document the conditions inside jails and amplify the experiences of those incarcerated to advocate for systemic change.

Background

Many of the people we represent have tried for years to access mental health and substance use treatment, but struggle to find providers who accept their insurance, speak their language, or have the skills needed to treat complex conditions. In lieu of community-based care, many people rely on psychiatric emergency rooms for acute treatment. People are routinely discharged from psychiatric hospitalization with nothing more than a referral to first-come-first serve walk-in mental health clinic and a list of congregate shelters or are outright denied services for requiring a “higher level of care” or having a co-occurring substance use disorder. Those who require complex care may on waitlists for months or years for Assertive Community Treatment (ACT) teams, supportive housing, psychiatric visits or other services they require. Left without viable treatment options, many face housing instability, the decomposition of their physical and mental health, and are funneled into the criminal legal system—policed, arrested, and incarcerated when they should be receiving health care.

As a mental health attorney, I represent people who are engaged in Brooklyn’s Mental Health Court. The people I represent often encounter police when they are in crisis and seeking care or when the absence of available care has led to the decompensation of their mental health. Too often, untreated mental illness becomes criminalized simply because the appropriate systems of care were not accessible when they were needed most.

People are eligible to participate in the court part if they have a serious and persistent mental illness, and many people have co-morbid substance use or health concerns. The court refers participants to contracted mental health providers, though getting access to appropriate treatment for people with co-morbid treatment issues can be complicated. Those who need dual-diagnosis treatment, inpatient care or partial hospitalization may spend months on waitlists—sometimes while on Rikers island—waiting for an opening. Additionally, almost all of the programs require participants to have health insurance, usually through Medicaid, and this bars many undocumented people from participating.

Rikers Island has been New York City’s largest mental health facility for decades.¹ Jails are not therapeutic environments and are not appropriate settings for people to get meaningful mental health care. Today, there are 6,613 people incarcerated at Rikers Island, over 61 percent of whom require ongoing mental health care.² People who are incarcerated report numerous ways DOC prevents them from receiving critical healthcare services, including insufficient staff to escort them to appointments, inadequate response to urgent medical situations, and preventing them from leaving their units for medical care during events such as lockdowns. DOC admits that it stops people in custody from accessing healthcare by shutting off phone and tablet access during lockdowns and at other times as a disciplinary tactic, preventing people from calling Correctional Health Services (CHS) to request care in the first place.

Additionally, many incarcerated people report instances of DOC falsely claiming that they “refused care” when, in many cases, the person did not refuse and, at times, DOC failed to even notify them that they had an appointment. And substantial evidence exists that DOC marks people as having refused when the Department simply refused to provide the staff or accommodations needed by the person in custody.

We call on the Council to work with defenders, advocates, and all stakeholders in the criminal legal system to address the systems that contribute to the number of people with serious mental illness (SMI) in jails.

Implement Upstream Solutions to Prevent People with SMI from Entering Jails

Jails are not therapeutic environments and are not appropriate settings for people to get meaningful mental health care. The Council should work with all criminal legal system stakeholders to stop the flow of people with mental illness into jails.

1. Bail

New Yorkers continue to be detained pretrial because bail is set in amounts they cannot afford. Under state law, bail is a tool that should only be used to ensure people return to court. In practice, judges routinely set money bail that functions as a detention order. The city cannot close Rikers, reduce harm, or honor the presumption of innocence while court actors continue to rely on bail and jail as routine case-management tools. Incarceration disconnects New Yorkers

¹ Benjamin Heller and Will McKeithen, Rikers Was Never Meant to Be a Mental Health Clinic. As the Notorious Jail Closes, Here’s How New York Leaders Can Break the Cycle., Vera, <https://www.vera.org/news-spotlights/rikers-was-never-meant-to-be-a-mental-health-clinic-as-the-notorious-jail-closes-heres-how-new-york-leaders-can-break-the-cycle>

² Vera, New York Criminal Justice System Data Hub, September 23, 2026, <https://www.vera.org/ny-data-hub/jail> ; Urban Justice Center: Mental Health Project, *Brad H. Discharge Planning Services*, 2021, <https://mhp.urbanjustice.org/wp-content/uploads/sites/10/2021/08/Discharge-Planning-Handout-2021.pdf>

from their communities, resources, and support networks. It means treatment, medication, and services are interrupted. The Council should use its oversight authority to demand transparent data, identify the practices that are driving detention, and require concrete corrective action from courts, prosecutors, and city agencies. We welcome members of this Committee to spend a day with our staff in criminal court to see firsthand the way bail functions.

2. End Policing as the Default Response to New Yorkers in a Mental Health Crisis

For years, BDS has advocated for the removal of the NYPD from the majority of mental health responses, including emergencies, and for the expansion of mobile crisis teams staffed by trained professionals. While the city has made some attempts to reform its approach to SMI through piecemeal legislation and pilot programs, these efforts remain insufficient. Despite the growing recognition of the problem, the NYPD and the criminal legal system continue to be relied upon as the default responders in mental health crises. This reliance not only fails to address the root causes of these emergencies but also puts lives at risk.

The City should continue to invest and build upon the Crisis to Care platform championed by the Progressive Caucus and the city's new Office of Community Safety must begin to completely overhaul B-HEARD. BDS supports the implementation and expansion of B-HEARD, and we encourage the Council to work with the mayor's office to ensure this program is fully staffed and funded to meet community needs.

3. Pass a Resolution in Support of New York State's Treatment Court Expansion Act

Over the past few years, the New York State Legislature has championed and won historic legislative change in the criminal legal system. BDS calls on the Council to pass a resolution in support of the Treatment Court Expansion Act (TCEA) (S4547 - Ramos/A4869 - Forrest).

As previously stated, New York's current treatment court model has many restrictions on who is able to participate in a diversion program, based on their charges, diagnoses, or personal history. TCEA will substantially expand access to judicial diversion and create tangible steps toward ending the criminalization of mental health and cognitive impairments in New York. TCEA will create parity in the court system for vulnerable populations who need support and opportunity, and promote public safety by opening avenues of appropriate, individualized treatment where currently the default is incarceration. TCEA will:

- Create equitable access to judicial diversion by making the current judicial diversion law inclusive of people with mental health challenges and neurological, intellectual, and other disabilities.
- Allow New Yorkers to access treatment regardless of where they live. Currently, some counties will not allow people to participate in treatment court unless they are a county

resident. TCEA will enable people to engage in treatment court within their county of residence, regardless of where the offense with which they are charged took place.

- Provide due process protection by ensuring that judicial diversion participants are not jailed without due process by requiring there be some substantiation of violations of judicial diversion conditions.
- End automatic exclusions based on level of charge. Currently, some people are excluded from participating in judicial diversion because of the section of the Penal Law with which they are charged regardless of their personal circumstances and background. TCEA will expand access to judicial diversion to people accused of any criminal offense. Research shows that diversion programs promote public safety, and that the nature of the charge does not impact treatment outcomes. TCEA will provide judges with the discretion to give people appearing before them individual consideration.
- Increase likelihood of success by embracing a clinical rather than punitive approach. TCEA will allow individuals to participate in treatment court without requiring them to plead guilty to access treatment. Judges will be trained in the best practices for mental health treatment within the judicial system. These practices will be grounded in providing support for participants and guided by treatment providers' individualized recommendations rather than over relying on punitive sanctions. TCEA will promote collaboration between participants and treatment providers, offering participants the best chance of achieving their treatment goals.

Jails and prisons have become the de facto mental health facilities across New York State. TCEA seeks to put an end to this untenable condition and to redirect people out of jails and the criminal legal system and into evidence-based treatment programs that can offer the medical care and support they need.

Address Crisis in Mental Health on Rikers

The majority of people incarcerated on Rikers Island require mental health treatment during their time in custody. People who enter Rikers with no preexisting mental health conditions frequently experience rapid deterioration of their physical and mental health. Currently, over 60 percent of people in custody qualify for special discharge services under the *Brad H* Settlement. The proportion of people in custody with a serious mental illness has risen year over year, from 16.2 percent in FY22 to 22.3 percent in FY26.³

1. Improve the Quality of Mental Health Care

³ Office of the Mayor, Mayor's Management Report, September 2026, https://www.nyc.gov/assets/operations/downloads/pdf/mmr2026/2026_mmr.pdf

In their testimony today, Correctional Health Services stated that people in custody receive the “community standard of care.” In our experience, the people we represent receive vastly different care depending on the unit or building in which they are detained—if they receive care at all. Depending on the unit, people in custody may meet with clinicians in the facility clinic, a mental health clinic, on their unit, or cell-side. People we represent report these meetings are often brief wellness checks and many report seeing a provider only once every four weeks. When therapy happens in the health clinic, it is generally provided in a cubical within sight and sound range of staff and people in custody who are also in the clinic to access care. This means people are attempting to engage in mental health treatment with no privacy, preventing any meaningful building of rapport, trust, and a sense of safety.

Through these brief encounters, many of the people we represent are given a diagnosis and treatment plan which includes psychotropic medications. The people we represent often report that they are not informed of their diagnosis, treatment plan, or medications they are given. This lack of psychoeducation is concerning, especially as many psychiatric medications have complex side effects including increased risk of suicidal ideation. People in custody who request their medical records to determine what they are being treated for are routinely denied access. When our office has requested medical records for people in custody, we have found incidences when the notes included were for the wrong person or where pages of another person’s medical record were seemingly copy-pasted into a psychosocial assessment.

2. Ensure Continuity of Care Throughout Time in Custody

The quality of care at Rikers often depends on the unit or building someone is housed in. Being moved to a new unit often means someone will have entirely new set of providers, clinicians, and programs. The people we represent often report the best care they receive is from outside, community-based programs that provide mental health programming in the jails. Importantly, when people in custody build relationships with services provides from non-profits, they are often able to continue to engage with them once they return to the community.

In 2023, the Adams Administration cut \$17 million in funding to non-profit organizations providing programs inside the city’s jails, abruptly ending all available courses and therapeutic programs at the end of June 2023. The impact of these cuts was felt immediately by the people we represent. It meant the elimination of critical programs and classes including therapy, educational and job training classes, and anger management. The Mayor’s Management Report from 2026 indicated that only 16.5 percent of people in custody participated in any programs, services, or activities.⁴ The benefits of regular access to programs led by nongovernmental organizations cannot be overstated. In addition to offering people in custody the opportunity to

⁴ Office of the Mayor, Mayor’s Management Report, September 2026, https://www.nyc.gov/assets/operations/downloads/pdf/mmr2026/2026_mmr.pdf

grow existing skills and learn new ones, build relationships with providers, and interact positively with others, such programs also help people build meaningful connections to their broader community. After leaving Rikers, people may have ongoing relationships with community-based organizations that offer a continuum of care.

3. Engage in oversight on suicide prevention and mental health standards

The best way for the City to prevent suicide and self-harm in the jails is to stop sending people to Rikers Island and focus on diverting them from the criminal legal system altogether. There is a crisis of deaths in DOC custody and serious inquiry should be made into the Department's failures to prevent death by suicide in the jails and courts.⁵

When someone is in custody is flagged at risk of self-harm or suicide, DOC places them on "suicide watch status." Department directives mandate that those on suicide watch are housed in areas where staff can provide constant, direct supervision and that officers on duty conduct rounds every 15 minutes.⁶ The department also employs people in custody as suicide prevention aids, who work long shifts watching other people in custody and intervening in case of crisis. This is a coveted role, as the compensation is much higher than other jobs on the island, but also because many find the work meaningful.⁷ One person we represent has worked as a suicide prevention aid in several facilities. In one instance, he has witnessed a person under his supervision engage in self-harm—but when he went to seek assistance from department staff found that no officer was on the floor to call for medical aid.

4. Address Delayed Transfers to Office of Mental Health Facilities

Pursuant to the Criminal Procedure Law governing mental fitness to proceed with trial under Article 730, when a person is incarcerated at the time a court issues an order of examination of fitness, scheduling the examination can take two or more weeks. As per the city's own data, people requiring 730 examinations remain in jail three times longer than those without serious mental illness. Moreover, if the person is found "unfit" or "incapacitated," they will remain incarcerated until there is a bed available for them at an appropriate institution operated by the NYS Office of Mental Health (OMH). Currently, up to 200 people are incarcerated awaiting transfer to an OMH facility. The average wait time is more than five months. People

⁵ Charles Lane, Man who died in city custody at Queens courthouse died by suicide, medical examiner says, Gothamist, September 24, 2026, <https://gothamist.com/news/man-who-died-in-city-custody-at-queens-courthouse-died-by-suicide-medical-examiner-says>

⁶ Department of Correction, Directive: Suicide Prevention, https://www.nyc.gov/html/doc/downloads/pdf/4521_Suicide_Prevention_11_15.pdf

⁷ Rashon Venable, I Had a Tough Job at My Brooklyn Jail: Keeping Men From Taking Their Own Lives, The Marshall Project, April 14, 2024, <https://www.themarshallproject.org/2024/04/12/brooklyn-jail-suicide-prevention-aide>

decompensate and will often be transferred to an OMH facility in worse conditions than when they first entered Rikers Island, which then turns requires lengthier treatment.

The lack of resources for mental health treatment in this area, including lack of trained and licensed personnel and available bed space at appropriate facilities, such as Kirby Forensic Psychiatric Center, Mid-Hudson Forensic Psychiatric Center, Manhattan Psychiatric and Elmhurst Hospital, is causing people to languish in city jails without appropriate treatment. Another solution exists and is authorized under Article 730. Defense attorneys continue to seek alternatives such as outpatient restorations. OMH utilizes local city hospitals such as Creedmore, Kingsboro, Metropolitan and South Beach. However, without appropriate funding, outpatient restoration services will remain limited and prosecutors will continue to refuse to consent to outpatient restorations.

As discussed above, city jails, and Rikers Island in particular, are ill-equipped to treat those with mental illness. The longer a person remains incarcerated at a city jail without proper treatment, the harder their condition may be to treat, and the more resources it may require to help them stabilize and return to baseline functioning and rejoin their homes and communities. We urge the City Council to require transparency and accountability. For anyone incarcerated at Rikers, OMH should be required to report on a quarterly basis its decisions on specific designations (Kirby, Mid-Hudson, Manhattan Psychiatric or Elmhurst Hospital), the wait times for each facility and individual, and the length of stay at each facility. Finally, because outpatient restorations are authorized, OMH should be required to report on the number of out-patient restorations at each local hospital as well as the length of treatment to treat and restore each individual.

5. Eliminate unnecessary barriers to accessing care

The DOC's failure to provide escorts to mental health appointments and other critical services is dangerous and has serious, sometimes fatal consequences. Many people in custody enter the correctional system with risk factors for self-harm such as having a history of trauma, mental health issues, and/or substance use. Despite policies and efforts by correctional health clinicians to provide intake services, medication, and schedule recurring appointments, the Department is a regular barrier for people in custody to access essential treatment and care. Under current policy, the Department requires a majority of people in custody to have a DOC officer assigned to escort them to the clinic, legal visits, family visits, barbershop, and other locations inside the facilities. The Department struggles to successfully produce people to these and other services and often cites a lack of escorts as the reason.

The NYC jails are managed by two primary agencies, the Department of Correction and H+H Correctional Health Services (CHS). Both agencies operate with their own policies and procedures that often overlap, contradict, and cause dual loyalty concerns. Regardless of the

condition, the Department maintains the ultimate veto power when it comes to a person in need of medical or mental health care. Correctional officers routinely serve as gatekeepers to medical and mental health care without the requisite knowledge or training. This system is rife with opportunities for abuse or human error. We are encouraged by the Department's testimony regarding its collaboration with CHS on a clinic production dashboard. We expect that dashboard to lead to meaningful solutions addressing failures to produce people to medical appointments but additionally urge the Council to monitor closely the numbers of missed medical and mental health appointments and consider legislative responses where data may continue to be lacking.

Pending Legislation

1. Int. 809-2026 - Requiring the department of correction to create and implement policies to address medical needs during and after lock-ins

BDS supports the spirit of Int 809, requiring the DOC and CHS to develop a plan to address access to medical care during and after lock-ins. We fear that this bill suggests that someone will not be produced for a medical appointment due to a lock-in, which is not—and should not be—policy. We offer the following recommendations to strengthen this legislation:

- Add language to specify the timeframe in which DOC and CHS must create and publish the plan;
- § 2(d): Add “no escort available” to the list of reasons someone is not produced to a medical appointment;
- § 3(f): Replace “a plan to address clinic production” to “a plan to address production to medical appointments” access to clinic, emergency, and planned medical care;
- § 3(h): Update the timeframe for submitting quarterly reports, to reflect the current year;
- § 4(e): Reporting on emergency lock-ins in mental health units should be expanded to require reporting on lock-ins inside all units and also breakdown the reports to include each unit separately;
- Additionally, If the reason for non-production is a refusal or walkout, the department should be required to report the reason for refusal;
- In addition to requiring DOC to report this, CHS should be required to report these same numbers (to compare the two agencies).

We welcome the opportunity to collaborate with the Council to strengthen this bill further to ensure that all people in custody have access to care.

2. Int. 453-2026 – Provision of mental health services for children visiting incarcerated individuals.



BDS appreciates the Council's attention to the children and young people who visit Rikers Island. Visiting a loved one can be frightening and traumatic at any age. While we agree children and young people with a loved one in custody should have access to supportive services, we oppose this bill which would require the Commissioner of Correction to establish a mental health program for children. The jails are not an appropriate setting for young people to feel safe, build rapport, and process what they are experiencing. The city jails are dangerous and mismanaged, a leading reason that 16- and 17-year-olds are no longer held in custody there. We encourage the Council, instead, to work community-based providers that already support families and children of people in custody to expand programming in the community. This will allow children to receive ongoing support in the community from people who are experts in working with young people.

Conclusion

BDS is grateful to the Committee on Criminal Justice for holding this critical hearing on mental health care in the city's jails. We encourage members of the Council to continue to visit Rikers, speak with constituents in custody, and use the knowledge gained to make necessary and effective changes. Thank you for your time and consideration of our comments. We look forward to further discussing these and other issues which impact the people we serve. If you have any questions, please feel free to reach out to Kathleen McKenna, Senior Policy Social Worker, at kmckenna@bds.org.