Brooklyn Defenders

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TESTIMONY OF:

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Oversight Hearing on Self-Harm and Suicide Prevention in City Jails

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Introduction

My name is Claudia Forrester and I am a Jail Services Advocate at Brooklyn Defender Services (BDS). BDS provides comprehensive public defense services to approximately 25,000 people each year who are accused of a crime, facing loss of liberty, their home, their children, or deportation. Thousands of the people we serve are detained or incarcerated in the City jail system either while fighting their cases in court or upon conviction of a misdemeanor and a sentence of a year or less. We thank the Committee on Criminal Justice and Chair Rivera for the opportunity to address the Council about the prevention of suicide and self-harm in the City jails.

For over 25 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. Our Jail Services Project addresses urgent needs related to basic civil rights and conditions of confinement for our clients who are incarcerated. We work to secure access to essential medical, mental health, safety and education needs through individual administrative advocacy, participation in Board of Correction (BOC) hearings and numerous working groups. We monitor and document the conditions incarcerated New Yorkers experience and advocate for their rights and well-being.

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. New York City jails have long been in a state of crisis; a violent, mismanaged disaster and a stain on this city. It has been clearly documented by endless testimonies from

people in custody,[1] health and correctional staff,[2] correctional experts, major newspapers and networks, and by the federal monitor who has released over a dozen reports.[3] The level of crisis in the jails cannot be overstated. People are suffering and dying. They are enduring mental health and medical crises without access to medication or care. They are starving without regular or sufficient meals. They are living in filthy conditions, held in units surrounded by literal garbage. Toilets are broken and overflowing into living areas. Intake cells are over capacity, people are being confined for days and weeks inside showers with no beds, mattresses, or toilets, and are sleeping on floors of showers covered in urine, vomit, and feces. People in custody—including those with no preexisting conditions—are experiencing rapid deterioration of their physical and mental health. With units going unstaffed, New Yorkers are left crying out for help while locked in a cell with no officer at their post.

For years now, this Council has heard stories of horrific abuse in the City's jails. With repeating evidence of dysfunction, the NYC Department of Correction (DOC) cannot and will not keep people safe.

Disfunction and Mismanagement in a Time of Crisis

Incarcerated people, their families and advocates, like our office, have been coming before this Council for years to share the dangerous actions of DOC. DOC has provided excuses for their own mismanagement of staff and access to services. This mismanagement has only heightened during the COVID-19 pandemic during which DOC failed to protect people in their care, escalating a culture of dysfunction. The NYC jails are in an acute humanitarian crisis, requiring the Nunez Monitor to publish two Special Reports on the status of the jails almost a month apart. The Monitoring team states that "The Department's multitude of nonfunctional systems and ineffective practices and procedures combine to form a deeply entrenched culture of dysfunction. Deficiencies in core foundational practices have been normalized and embedded in every facet of the Department's work."[4] Conditions in DOC custody have reached crisis level, exacerbating a culture of violence, isolation, and trauma in the NYC DOC jails.

[1]Rebecca McCray, What It's Like at Rikers, According to People Who Just Got Out: "They're not feeding people, there's no water, no showers, no phone calls," *New York Magazine, Sept. 23, 2021,* Available online https://www.curbed.com/2021/09/rikers-jail-conditions.html.

[2] Gloria Pazmino, Staffing Dysfunction and Unsafe Conditions lead to Crisis on Rikers Island, NY1, September 9, 2021, Available online https://www.ny1.com/nyc/all-boroughs/public-safety/2021/09/10/rikers-island- staffing-issues-correction-officers-calling-out-unsafe-conditions-what-happened.

[3] All Nunez Monitor Reports are available online at https://www1.nyc.gov/site/doc/media/nunez-reports.page

[4] Nunez Monitor Special report page 3

Basic services have broken down to become inconsistent, ineffective or completely non-existent across all NYC DOC facilities. The following is not an exhaustive list of broken services people in custody describe:

- Meals arrive hours late or sometimes not at all;
- Commissary stock is low or severely limited;
- DOC fails to provide clean clothing, blankets, and mattresses;
- Access to recreation and fresh air is not prioritized for DOC. People report being locked in their cells for days, weeks, even months.

In my role, I visit people in DOC custody on a weekly basis and witness first hand the impact of the jails on the physical and mental health of the people the City detains.

Mr. A shared that he doesn't get more than one meal a day and believes he has lost about 20 pounds since he entered restrictive housing. He has stopped taking his psychiatric medications all together because he was only getting them "about twice a week anyway."

Mr. B is a young adult who typically calls his family daily. Neither his family nor his legal team were able to contact him for about 10 days, despite multiple scheduled video conferences and requests for urgent calls. Our team learned that Mr. B was being held in deadlock[5] in a general population (GP) unit. For most of this time, he had no mattress and had to sleep sitting up on his bed frame. DOC did not provide any meals during this time. The only food he received was shared by other incarcerated people from their commissaries. After 6 days he started hallucinating from lack of sleep and food. During these 10 days, Mr. B had no access to the phone, counsel, or medical or mental health services.

Mr. C has been locked in his cell for two months. He shared that he has not seen the sun or been outside for the entirety of this time.While the ratio of officers to incarcerated people is one of the highest in the country,[6] when our staff asked that Mr. C be released from his cell, the response from DOC remained "we're understaffed. There's nothing we can do."

Mr. D has been in and out of Rikers Island for most of his life. In a recent counsel visit, he appeared demoralized and shared "this is the worst I have ever seen it. Nothing works. There is nothing to do. No one cares. It has never been this bad."

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[5]Clients represented by Brooklyn Defender Services have reported they were held on Deadlock status, referring to 24 hours a day lock-in with no access to showers, telephones, law library and recreation. BDS submitted a Freedom of Information Law request to the Board and the Department for policies, procedures or directives concerning Deadlock status but thus far have not received any responsive documents. Even if no such records exist, "Deadlock status" is apparently well-known within DOC

[6] https://www.vera.org/downloads/publications/a-look-inside-the-new-york-city-correction-budget.pdf

While data suggests that spending time outdoors is essential for physical and mental health,[7] people in custody are regularly denied outside recreation. As the Nunez Special Report shared, "The level of dysfunction within the Department's staffing framework is unmatched by any jurisdiction with which the Monitoring Team has had experience."[8] These excessive issues preventing access to basic rights have been going on for years and nothing has changed.

Once incarcerated, people are almost guaranteed to have their basic rights and needs denied, leading to feelings of hopelessness, isolation and suicidal ideation.[9] *Mr. E* said, "We are being treated like animals. It is impossible to get anything without pulling something. I don't want to be that person. So I don't get what I need. The only thing these people respond to is violence. Like animals we have to make a scene to get the most basic things."

People who are denied basic human needs–such as food, medication, fresh air, communication with family, and physical safety–will resort to desperate and sometimes even dangerous actions to be heard and seen. *Mr. E* shared that his voice has become hoarse from calling for the COs to get medical care for another person and he has had to beg for his own medications and for a COVID vaccine. He described that there is feces and urine all over the Enhanced Supervision Housing (ESH) level 1 housing unit, as others have resorted to throwing their own waste to attract attention. In an environment with such extreme breakdowns in care, it is no surprise that rates of self-harm and attempted suicides have skyrocketed.[10]

Impact of Isolation and Idleness

Solitary confinement, by any name, is torture, and this City must end the practice in the City jails. The devastating harms of solitary confinement come not from being in one particular space but instead from being alone without meaningful engagement. Meaningful out-of-cell time plays a critical role in preventing decompensation and ensuring the most basic level of mental, physical, and emotional safety for people who are isolated in restrictive housing. Medical professionals, security experts, human rights scholars, and advocates have all stressed that people

[7] Kirsten Weird, Nurtured by Nature: Psychological research is advancing our understanding of how time in nature can improve our mental health and sharpen our cognition, *Monitor on Psychology*, April 2020, Available at https://www.apa.org/monitor/2020/04/nurtured-nature.
[8] Nunez Special Report page 32
[9] Shumaila Khadim Ali and Sarmad Muhammad Soomar, Hopelessness Leading to Self-harm and Suicide, J*ournal of Neurology and Neuroscience*, January 2019, Available online at https://www.itmedicalteam.pl/articles/hopelessness-leading-to-selfharm-and-suicide-107615.html
[10] George Joseph and Raven Blau, Self-harm is Exploding in New York City Jails, Internal Numbers Show, *The City*, September 2021, Available online at https://www.thecity.nyc/2021/9/7/22659614/self-harm-suicide-rikers-island-new-york-city-jails-rising.

in isolation must have access to out-of-cell time, and that this time must be meaningful and provide human engagement.[11]

Studies support what those with direct experience of solitary confinement report, that meaningful engagement is key to reducing self-harm, psychological deterioration, and interpersonal violence in carceral settings.[12] Despite this, the Department continues to advocate for harmful policies, settings, and attitudes that actively isolate people and increase risk.

Inside and outside of restrictive housing units, access to programming has become rare and largely only accessible only to those in special units, ultimately preventing the majority of people in custody from accessing these resources. The Department must provide adequate and effective programming for all people to combat the effects of idleness.

Mr. F has been on and off of suicide watch during his 3 years of incarceration. For one month, Mr. F was placed in a Mental Observation (MO) unit where he received dialectical behavioral therapy (DBT), which he found incredibly helpful. He shared, "These emotional skills I'm learning have changed my whole outlook. It's changing the way I interact with other guys and COs too." Mr. F described that the most enriching part of the experience was the meaningful time spent with other people. He described discussing the program material with other people and practicing the skills they learned together on days they did not have programming. He said, "I feel like I've formed real connections for the first time in here. I now have other guys who I know would check me in a positive way, especially if I start to get in my head again. [The programming] has really helped me with my mental state, helping me to calm down and remember that everyone is just trying to live their lives. These are skills I can pass on to my kids. It's crazy that I've learned anything in here, but this is the first positive thing to come out of my time here." Shortly after, Mr. F was moved out of the MO unit and no longer had access to DBT programming. When asked if the skills he learned and the progress he had made would've been possible if he were isolated from others, he answered "not a chance. The only way this works is

[11] The concept that out-of-cell time should be "meaningful" stems from the "Mandela Rules" promulgated by the United Nations. The UN recognized that humans require mental, physical, and emotional contact to survive. The American Bar Association has similarly recognized that all people, including those in segregation, must be provided with "meaningful forms of mental, physical, and social stimulation." This concept recognizes that incidental or obligatory contact is insufficient. For more see United Nations General Assembly Resolution 70/175, adopted 17 December 2015, United Nations Standard Minimum Rules for the Treatment of Prisoners, https://undocs.org/A/RES/70/175 ("Mandela Rules") or the American Bar Association, Standards on Treatment of Prisoners, Segregated Housing, Standard 23-3.8(c), Available online at https://www.americanbar.org/groups/criminal_justice/publications/criminal_justice_section_archive/crimjust_standards_treatmentprisoners/

[12] Louis Favril, et al, Risk factors for self-harm in prison: A systematic review and meta-analysis, *The Lancet: Psychiatry*, August 2020, Available online at https://www.thelancet.com/journals/lanpsy/article/PIIS2215-0366(20)30190-5/fulltext.

by connecting with other people and being able to open up. No one can do that if they're being treated like an animal."

With the passage and implementation of the Humane Alternatives to Long Term (HALT) Solitary Confinement Act, DOC is required to ensure all people are provided with a minimum of 7 hours out of their cells daily. Yet numerous people, as recent as this week, are reporting being locked in their cells for 23 to 24 hours a day without access to programming, recreation, or due process. We know that incarcerated New Yorkers across all housing units are suffering under DOC's extreme mismanagement, but the neglect being experienced by those in restrictive housing is exacerbated by the inherent isolation of these units. The Council must acknowledge the role any form of isolation, regardless of the name, has on individuals and its catalyst to self-harm within the jails and take steps to ensure no person in New York City jail is held in solitary confinement.

Mr. G was held in ESH Level 1 for over 6 months. DOC violated his due process rights and failed to provide him with an infraction notice, hearing, or review. Additionally, the only out of cell time he was provided was 15 minutes to shower once a week – for months. He essentially experienced 24 hours of lock-in a day for 6 months with no guarantee of an end date. During these 6 months, Mr. G was placed on suicide watch three times. Upon his release from ESH, he shared that the only thing that got him through was being able to speak with his family over the phone.

DOC is willingly violating the HALT Law. People are locked in their cells for up to 24 hours a day with no water, food, adequate heat, access to healthcare, or access to their loved ones. DOC's continued isolation of people will only feed the crisis in the City jails. This Council must pass legislation to ensure all people, regardless of security status, have a minimum of 14 hours out of cell time and access to meaningful and engaging programming. The City must also hold DOC accountable when they violate existing standards and laws that are knowingly harming people in custody.

Restricting Visits with Loved Ones

Visits from loved ones are critical for the emotional wellbeing of people in custody. The very nature of incarceration isolates people from their families, friends, and communities. The location of Rikers Island makes visiting the jails difficult for many, and DOC adds additional barriers to receiving support from the outside by limiting visits to specific days and times that are usually an obstacle to those who work and or are primary caregivers. Additionally, with the expanded use of televisiting, technical issues have prevented many from scheduled virtual time

with their support systems. Delays in scheduling and connecting to visits is often discouraging and may ultimately dissuade families from continuing in the process.

While DOC resumed in-person visits in February of this year, the Department has not fully opened its visiting rooms. For more than two months, EMTC's visiting house has been closed off and family visits have been relocated to the two legal visit booths. This means that families for all of the people incarcerated at EMTC and legal counsel are restricted to the use of two spaces for visiting – instead of having separate access to confidential counsel visits and congregate visiting rooms. DOC has stated verbally that counsel visits are given priority over family visits, so families are required to wait while attorneys meet with clients. The DOC has not shared a plan to reopen EMTC's visiting house.

DOC must commit to increasing access to family connections for all incarcerated people. Contact with support networks is an essential part of mental health care and building hope. Opening the EMTC visit room is just one example of easy changes DOC could be making to promote these connections. The intense level of isolation resulting from the excessive use of restrictive housing, lack of meaningful out-of-cell time, and barriers to outside support systems dramatically exacerbates mental health crises and promotes self-harm and suicide in City jails.

Gatekeepers to Mental Healthcare

DOC's mismanagement of its staff, primarily its failure to provide escorts to mental health appointments and critical services, is dangerous and has fatal outcomes. We know that 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.[13] 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

[13] Laura Frank and Regina T.P. Aguirre, "Suicide Within United States Jails: A Qualitative Interpretive Meta-Synthesis," Journal of Sociology and Social Welfare XL, no.3 (2013): 31-52; Doris J. James and Lauren E. Glaze, Mental Health Problems of Prison and Jail Inmates (Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 2006, NCJ 213600); Henry J. Steadman, Fred C. Osher, Pamela Clark Robbins, Brian Case, and Steven Samuels, "Prevalence of Serious Mental Illness Among Jail Inmates," Psychiatric Services 60, no.6 (2009): 761-765.

locations inside the facilities. However, data shows that the Department aggressively fails to produce people; in May 2022, over 12,000 cases of non-productions were reported.[14]

Mr. H is diagnosed with schizophrenia. He told our staff that he stopped taking his psychiatric medication completely because DOC staff repeatedly failed to escort him to the clinic, so he was only receiving his prescribed medications about once a week. As a result, Mr. H experienced severe withdrawal symptoms, which contributed to the deterioration of this mental health, and suicidal ideation.

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. For instance, to access healthcare in a DOC facility, an individual must submit a "sick call" request to officers in their housing unit, who are responsible for forwarding requests to clinical staff. Far too often, correctional staff can–and do–fail to forward sick call requests to CHS staff, or falsely claim that an individual "refused" to be brought to their appointment, as a tool of control or punishment. Relatedly, if a mental illness or developmental or cognitive disability goes unnoticed by CHS during intake, behavioral manifestations of these conditions may be punished by DOC and lead to time in restrictive housing.

In a recent case, our office made CHS and DOC aware of a person in crisis. This Person had decompensated significantly over a short period of time and was reportedly smearing feces on the walls of this cell. Both agencies failed to respond to the emergency.

Mr. I was diagnosed with schizophrenia and for months our team tried to meet with him but were given excuses by DOC for why the visit was not allowed. Thanks to his medical records, we learned that, despite protections in place preventing people with SMIs from entering solitary, DOC was locking him in his cell for weeks at a time. This resulted in Mr. I making a suicide attempt, causing extreme physical harm and requiring Mr. I to be transferred to a hospital ICU where he was intubated. Prior to his suicide attempt, our office raised concerns about Mr. I's wellbeing for weeks–but both agencies showed little urgency to address the crisis he was experiencing. BDS sent multiple referrals regarding Mr. I's mental health, yet CHS still cleared him for placement in isolation. Despite our advocacy, and his obvious and immediate needs, Mr.

[14] New York City Department of Correction, Monthly Report on Medical Appointment Non-Production, March 2022, https://www1.nyc.gov/assets/doc/downloads/pdf/Medical_Non_Production_March_2022.pdf

I was failed by both CHS, who should have advocated for his placement in a higher level of care, and DOC, who refused to transfer him to an appropriate unit.

Department staff are not medically trained to recognize contraindications to isolating placements. It is not possible nor appropriate for Department staff to make housing decisions when input from healthcare staff is ignored. Instead, Correctional Health Services must ensure that people's medical and mental health needs are met and they must be given the authority to override DOC's harm placements.

DOC Fails to Respond and Protect

While the conditions of the City's jails have contributed to increased rates of self-harm and attempted suicides, DOC's response to these incidents within the jails is delayed, poorly performed, and inappropriate. People in crisis do not receive preventative services and emergency responses are slow and mismanaged.

Mr. J shared that he has watched individuals wait hours to be brought to the clinic for medical emergencies. In one instance, he helped carry another person to the clinic when officers were not available during a medical emergency. "They will let you bleed out on the floor until you're at death's door before they do something. The response is always 'I called already. I've done everything I can do. You have to be patient.' Meanwhile the guy is literally dying in front of all of us." These traumatic events add to the climate of hopelessness and extreme stress in the City's jails.

When someone is flagged at risk of self-harm or suicide, DOC places them on "suicide watch," though in practice the placement is rarely effective. *Mr. K* shared that he has been on suicide watch since he entered DOC custody almost a month ago. He reported that the quality of supervision varies greatly based on which officer is on duty. While he is supposed to be under constant supervision, Mr. K told our office that the majority of the time his assigned officer is in the bubble talking with other officers, or is asleep. This experience is not unique to Mr. K, our team frequently hears this description from people who are placed on suicide watch. Even when DOC has been actively warned of an individual's risk to themselves, they fail to carry out the procedures to keep that individual safe.

Perhaps the most concerning part of DOC's mishandling of issues around self-harm and suicide in the NYC jails is their response to suicide attempts. *Mr. L* watched another individual in his unit attempt to hang himself with his bedsheets. The officer in his unit ran into the cell and deployed chemical agent spray as a primary response before cutting down the bedsheet. This incredibly inappropriate response to a mental health crisis is a familiar story to our team, as

DOC's use of chemical agent spray in these systems is procedural. It should be obvious that inflicting chemical agent spray on an individual who is already struggling to breathe is inhumane, yet that behavior has been applauded within DOC as "life-saving."

DOC is unsuited, due to its ingrained culture of violence and unwillingness to provide effective training, to house individuals experiencing mental health crises. Rather than de-escalating situations and moving people to places of safety, DOC constantly antagonizes people already pushed to the edge.

Mr. M has been on suicide watch for most of the time that he has been incarcerated. He shared that he was sexually assaulted while being held at EMTC. Seeing a PREA poster in his unit, he reported the incident and was taken to Bellevue to be evaluated. During the trip to the hospital, the DOC officers assigned to transport him taunted Mr. M and made fun of the sexual violence he had experienced. Mr. M made it back to his unit and made a plan to attempt suicide the following morning. "I did what it said on the walls.I followed the rules and I was only more traumatized. I wish I had done nothing. I'm not going to make it out of here. I can not survive this."

Proposed Legislation

Conditions within the City's jails are horrific and continue to deteriorate. The Council must take all available steps to decarcerate New Yorkers to dismantle the culture of chaos in DOC.

Int 30

BDS supports the spirit of Int 30, 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;
- § 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;

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- 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.

Int 181

BDS supports Int 181, which would require the DOC to publish all policies, procedures, and directives online. We applaud this step toward transparency and urge the Council to further strengthen the bill language by requiring the DOC to document the reason any policies are redacting and establishing a timeframe in which policies must be uploaded to the website when they are added, amended, or eliminated.

Conclusion

In the last year and a half, nineteen people have lost their lives in DOC's custody and control, and at least five people are known to have died by suicide. Numerous people we serve have shared witnessing suicide attempts and watching people be carried out in body bags. Incarcerated people are bearing witness to the horrors this Department has created, and as a City, our elected officials and Department staff must be held responsible for the trauma imposed onto people in custody and their loved ones. The City must abolish any form of solitary confinement, hold DOC accountable for their harmful practices, and provide people with resources and access to treatment without delay or barriers. We call on the City Council to tour the City jails regularly and without notice, speak with people in custody and their family members about their harms and trauma, and use this learned information to make effective change.

If you have any questions or concerns, please feel free to contact Kelsey De Avila, Jail Services Project Director, at kdeavila@bds.org.