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**Testimony by Council Member Daniel R. Garodnick**  
**On**  
**The implementation of the Prison Rape Elimination Act**

**July 26, 2016**

Good morning. Thank you to the Board of Corrections (BOC) for holding this hearing today, and for your work on this important issue.

The research produced as a result of Prison Rape Elimination Act (PREA) demonstrates that sexual abuse and harassment is a serious problem for certain incarcerated individuals, so these proposed rules to detect, prevent, and respond to sexual abuse and harassment of incarcerated individuals represent a crucial step towards eliminating prison rape.

My testimony today focuses specifically on the issue of treatment of and housing for transgender inmates. Transgender inmates experience some of the highest rates of sexual abuse and harassment out of all incarcerated populations, so it is important that the rules acknowledge this fact, and attempt to mitigate the problem.<sup>1</sup>

I am happy to see that the proposed rules incorporate several changes that take into consideration respect for transgender inmates gender identity. Specifically, “subdivision (e) prohibits the Department from searching or physically examining a transgender or intersex inmate solely to determine the inmate’s genital status, while subdivision (f) requires the Department to train security staff in how to conduct cross-gender pat-down searches, and searches of transgender and intersex inmates, in a professional and respectful manner, and in the least intrusive manner possible consistent with security needs.”<sup>2</sup> This policy, along with the additional trainings on how to communicate effectively with LGBTQI inmates, among others, would be a great improvement to the treatment of these inmates.

<sup>1</sup> “Board of Correction Proposed Rule,”

[http://rules.cityofnewyork.us/sites/default/files/proposed\\_rules\\_pdf/boc\\_proposed\\_rule\\_0.pdf](http://rules.cityofnewyork.us/sites/default/files/proposed_rules_pdf/boc_proposed_rule_0.pdf)

<sup>2</sup> “Board of Correction Proposed Rule,”

[http://rules.cityofnewyork.us/sites/default/files/proposed\\_rules\\_pdf/boc\\_proposed\\_rule\\_0.pdf](http://rules.cityofnewyork.us/sites/default/files/proposed_rules_pdf/boc_proposed_rule_0.pdf)

I commend the Board for proposing a requirement that all inmates be screened for their risk of either being sexually abused or being sexually abusive, and that this information be used when making decisions regarding housing, work, bed, education, and program assignments.<sup>3</sup> I also support the Board's decision to omit the PREA standard that may limit the establishment of certain kinds of dedicated housing units, including housing units for transgender inmates, to allow the Department the flexibility of housing individuals in a dedicated unit, such as a transgender unit, on a voluntary basis.<sup>4</sup> I would suggest that the Board add a provision clarifying that inmates should be housed according to their gender identity, unless there is a clear and compelling reason why an individual's housing in this manner would pose a danger to staff or other inmates. This would extend the same expectation of basic human rights to transgender inmates that is afforded to all people in New York City.

These proposed rules demonstrate a commitment to preserving transgender inmates' safety and dignity, regardless of their status as incarcerated people. Thank you for the time today, and for your work to prevent prison rape.

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<sup>3</sup> "Board of Correction Proposed Rule,"

[http://rules.cityofnewyork.us/sites/default/files/proposed\\_rules\\_pdf/boc\\_proposed\\_rule\\_0.pdf](http://rules.cityofnewyork.us/sites/default/files/proposed_rules_pdf/boc_proposed_rule_0.pdf)

<sup>4</sup> "Board of Correction Proposed Rule,"

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