



TESTIMONY OF:

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Presented Before

The New York City Board of Correction

In relation to rulemaking regarding sexual abuse and sexual harassment

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Thank you for the opportunity to testify this afternoon regarding an issue we believe is of profound importance. We appreciate the Board's efforts to develop rules that aim to prevent and respond to sexual abuse in city jails. It is imperative that the Board adopt rules that incorporate a level of detail which ensures accountability, clarity in implementation, and meaningful enforcement. We echo each of the recommendations raised in the detailed testimony submitted by our colleagues at the Legal Aid Society Prisoners' Rights Project.

As the Board returns to finalize rules, we urge you to consider the unique environment of the jails you oversee. While the Federal Prison Rape Elimination Act (PREA) standards are a useful starting point to create rules, the Board's rules should take into account the unique risks associated with jails generally and New York City jails specifically. Our testimony will focus on three primary areas from this framework: the transient nature of the population, the risks associated with movement and transportation in a remote jail setting, the risks associated with reporting while in pre-trial detention on Rikers Island. Our testimony will be composed primarily of the stories of our clients whose voices will be underrepresented here.

A Transient Population:

Unlike a state prison system where the population is relatively static and predictable in its changes, New York City jails are characterized by short stays and frequent re-incarcerations. In light of these facts, the Board's rules should include protocols for people to report sex abuse after discharge, with the full range of investigatory action and referrals for prosecution; as well as an obligation for DOC and HHC to facilitate referrals to rape crisis counseling and advocacy. Additionally, the Board's rules should provide for separation between people who have been sexually abused and their alleged perpetrators and other involved parties should they discharge and return to custody.

Mr. C: Mr. C was referred to me by his attorney after learning he was being denied food by a male officer. When I met with Mr. C he disclosed and said the officer denying him food was the same officer, who a couple of years ago during a separate incarceration, watched and encouraged the rape of Mr. C by other men. Mr. C was brutally raped by 3 men inside the bathroom of his dorm, while the male officer watched. Mr. C has since undergone surgery to repair the tissue damage done to him that night and has made multiple suicide attempts by swallowing razors. Two years later, Mr. C was in the custody of the same male officer. The officer remembered Mr. C and shared with other residents of the unit that Mr. C was raped repeatedly and would only address him as ‘pussy’ and ‘faggot’. Not only did this male officer humiliate Mr. C and make it impossible for Mr. C to be safe, this male officer continued to work under DOC, for a number of years, where his actions were not secret or hidden behind closed doors, but in the open.

Transportation and Court Production Risks

Jail systems are tasked with significantly more transportation responsibilities than are state prison systems. Rikers Island, with its remote location presents a unique set of challenges, which come with significant risks. Each time our clients are produced to court, they are woken up at approximately 4:00am. Often they spend significant time in intake areas with many other people with little or no supervision. After arriving at court, they are housed in similarly crowded “pens,” again often for extended periods and with little or no supervision. We encourage the Board to explicitly address in its rules the unique qualities of New York City jails, to ensure that all areas in which people are held, including in transport, are adequately supervised, monitored by video surveillance and that staff in these areas receive appropriate training.

Getting to and from court involves long bus rides, typically with 2 officers present, and no supervisory staff on board. These vehicles present a tremendous risk to the safety of people in transit and there have been documented cases of rape by correctional staff on Corrections buses. The Board must require that buses be monitored by video surveillance, and that protocols be established to determine some notion of scheduling. An attack may occur off the vehicle itself, so there should be some method by which to track unscheduled delays, stops or other activity which could alert supervisors to possible issues.

Ms. A.: On the day Ms. A was raped, she had appeared in court earlier with her lawyer. After her appearance, she had requested to leave on the 3pm bus back to Rikers and it was while she was in transit that our client was raped by a male officer at the back of the bus, in a parking lot on Rikers Island, all while the driver of that bus sat and watched. When she reported, the bruises on her wrists and thighs were clearly visible. These two officers held Ms. A against her will and tortured her without anyone noticing or questioning the missing bus, the missing officers, the missing woman or why it took almost 12 hours for Ms. A to travel from court to her housing unit.

Pre-Trial Detention

We reiterate the concerns raised in others' testimony about access to in-person reporting channels and rape crisis intervention services that are **not** a part of the DOC chain of command. The vast majority of people on Rikers Island are held there for pre-trial detention because they cannot afford bail. An individual with an open case may be appropriately cautious about interacting with law enforcement. Fears about reporting officer misconduct or other safety issues in the jail are commonly based on a reasonable fear that making reports may lead to retaliation, including submitting false refusal notices during court appearances and counsel visits – literally cutting off the individual from their court-appointed advocates. It is absolutely necessary that people have access to civilians who can accept their reports safely and confidentially.

Ms. N.: Ms. N was incarcerated at RMSC and witnessed an officer take a woman into a private area of the dorm during the early morning hours. They did not emerge from the area for at least 30 minutes. They came out disheveled and it was apparent what had been happening. Despite rumors circulating about an officer exchanging contraband for sex, our client did not press or ask questions about what happened inside the private area and instead pretended she did not see or hear anything. Our client only felt open to discussing what happened with me, because she was concerned that making any official report could hurt her case and put her at risk. It would be safer for her if she kept quiet.

Developmental Disabilities

Finally, we encourage the Board to consider this opportunity in rulemaking to require DOC and HHC to, at a minimum, develop policies and procedures to identify, accommodate, and ensure safety for people with developmental disabilities and intellectual impairments. This population is at particular risk for sexual victimization, and particular attention should be paid to their needs in addition to the intake risk-assessment required under the rules.

Mr. D.: Mr. D is a young man with moderate mental retardation as well as mental health issues. During his incarceration, he was frequently the target of extortion and harassment. Mr. D had trouble following the rules and was disliked by many correction officers. As a result, he never felt comfortable asking for their help, even in the most extreme of circumstances. Mr. D learned to tolerate the abuse he suffered while incarcerated, until he finally told us that what he described as "horseplay" had gone too far – he was being forced to endure sexual abuse by another person in his dorm – ignored or undetected by staff. Fortunately he informed us and we were able to secure Mr. D's transfer to another unit, and eventually out of custody.

Conclusion

Once again, thank you for the opportunity to testify today and your openness throughout your fact-finding during the rulemaking process. We hope that the experts you have heard from today and previously help shape your final rules in a way that encourages greater accountability, and most importantly, will protect our neighbors in city jails from the horrors of sexual abuse.