



Testimony of

**Timothy Farrell**

**New York City Department of Correction**

before the

**New York City Council committee on**

**Criminal Justice Services**

regarding

**Safety and Security in DOC Facilities**

April 23, 2018

Good morning Chair Powers and members of the Criminal Justice committee. I am Timothy Farrell, the Senior Deputy Commissioner at the Department of Correction (DOC). Today's hearing serves two main purposes: to discuss the critical issue of Safety and Security in DOC Facilities and to discuss three pieces of legislation recently introduced by the Council.

I will start by speaking to the hearing oversight topic of Safety and Security in DOC Facilities. Without question, maintaining safety and security is the most important responsibility of any correction department. If staff and inmates are not safe, then no other policies or reforms matter. In the last few years, we have made fundamental changes to how we operate as an agency. We have incorporated management models that address the needs of individual populations, have expanded vocational training opportunities, and we have significantly increased opportunities to participate in meaningful programming.

When Commissioner Brann testified before the Council last month, she outlined her vision for the Department. She listed the following priorities:

- To move the Department forward to come out from under the Nunez consent judgment, demonstrating that we have made and sustained meaningful, necessary changes;
- Better integrate DOC into the city's Criminal Justice System;
- Develop a lasting leadership pipeline for uniformed and non-uniformed staff;
- Provide necessary tools, such as programming and training, to ensure meaningful and safe engagement between staff and those in custody; and
- Most importantly – ensure that our jails are safe for our staff and for those in our care.

As the Commissioner stated in March, “no meaningful reform and change can happen, if people involved do not feel safe.”

This focus on safety is one of the reasons that the Department supports the City’s plan to create a Smaller, Safer, and Fairer Criminal Justice system, which will include new, state-of-the-art correctional facilities off of Rikers Island. New facilities are designed to be safer than the antiquated facilities that we currently operate within. The issue is not just that our facilities have fallen into disrepair. The building designs themselves do not support modern correctional best practices.

New facilities have better sight lines and incorporate modern technology, both of which make facilities safer and better support staff on post.

Modern designs encourage program participation by incorporating programs and services into housing areas. Having programs in or immediately adjacent to a housing area facilitates access to programs because individuals do not need to move through the facility. Moving inmates through a facility can be a challenge because it creates opportunities for individuals who should not commingle to cross paths. Additionally, an incident involving just one person might disrupt services throughout the facility for several hours. If services are brought to the individuals, instead of the other way around, one incident would not affect others’ access.

New facilities are also designed to reduce stress and tension, which is just as important as improving supervision. Spaces that integrate open space, better natural light, noise reduction features, and climate control have calming effects, which in turn reduces incidents. This positive effect is experienced by those who live and work in the jails. All of these make jails safer environments for everyone.

A borough-based system also helps strengthen ties to the community for those in our custody. Easier access to attorneys and to meaningful support systems alleviates stress, minimizes issues, and creates better outcomes.

## **Reform Agenda**

As important as these new borough facilities are, we are not waiting to implement the long-needed changes.

We have moved away from a one-size-fits-all management model and created models that are tailored to best serve individual groups. We now manage adolescents with systems based on juvenile justice best practices, and we have created young adult systems based on similar philosophies. With Correctional Health Services (CHS), we have created clinically-focused environments to offer real care for those who have serious mental illnesses. We have targeted programming and services for our female inmates. Most recently, we have opened a housing unit for veterans, so that those who have served our country can receive tailored care to address their unique needs. Finally, we have created therapeutically-oriented, structured housing units for persistently violent individuals. These units allow us to focus on preventing future incidents of violence, instead of merely reacting to violence after the fact. Each of these populations receive

specially designed programming and services to best suit their unique needs. Just as importantly, staff who regularly work with these populations receive specialized training that equips them to work effectively with these groups, creating a safer environment for everyone. For example, DOC and CHS staff who work with mentally ill populations attend Crisis Intervention Team (CIT) training. The two groups train together to best prepare them to work together as unified teams to respond to individuals in crisis.

Our reforms have not stopped with specialized populations. Our management of our general population has also been redefined in the last few years. We now incorporate programming into inmate management in a way we had not been able to do before. We offer five hours of programming every day, which provides structure, reduces idle time, and allows individuals to use their time in custody productively. Much of our programming supports development of hard and soft skills critical to re-entry. These skills can aid in employment readiness post-release as well as address underlying issues that might cause negative behavior. If we can address those issues, we can create a safer environment for everyone.

Investment in our staff has been a critical part of the Reform Agenda. All staff have received new training in the last few years that gives them better tools to work with the population under their care. The academy recruit training has been extended to twenty-four (24) weeks and they now spend more time in on-the-job-training (OJT) before graduating. We have also increased in service training for tenured staff members. All uniformed staff have received the Special Tactics and Responsible Techniques (START) training, which is a five-day curriculum on the new use of force policy, including defensive tactics and de-escalation techniques. Use of force training was required by the Nunez consent judgment, but the training developed by our academy and provided to our staff goes above and beyond the requirement, to make sure that our staff have the best training possible. The second phase of this training (refresher on use of force policy plus several days of training on de-escalation techniques) is starting now. The skills taught in these courses enhance officers' ability to foresee incidents, allowing them to intervene and de-escalate situations without the need to use force.

## **Security Indicators**

As the Commissioner described last month, our reforms have yielded significant results, but we still have a long way to go. Between FY14 and FY17, DOC made sustained improvements in incident levels, particularly for more vulnerable and problematic populations. As we continue through FY18, we are encouraged by continued progress that the Department has made in preventing certain types of violent incidents, particularly those related to inmate-on-inmate assaults. The Department has reduced the number of fights between inmates by 6.4% in the first three quarters of FY18, compared to the same period in FY17. We have reduced serious injuries to inmates resulting from an assault or fight by 14% during the same time frame. Critically, we have reduced slashings and stabbings by 41%.

During this same time period, however, we have experienced upticks across other indicators. In particular, UOF and AOS have continued to increase. UOF are 13% higher in FY18 (first three

quarters) than the same period in FY17, and AOS are 8% higher. There has been an increase in incidents involving serious injuries, but, importantly, most incidents do not result in any injury to either inmate or staff member. In FY14, 52% of UOF resulted in a minor or serious injury. Now, that figure is 39%. In FY14, 72% of AOS incidents resulted in a minor or serious injury. Now, only 54% do.

As with all aspects of inmate management, incident management does not warrant a one-size-fits-all solution. DOC has made targeted efforts to better manage institutional misconduct and reduce institutional violence. These efforts have included opening a variety of new housing areas that allow close, targeted management of specific populations. These specialized units have been especially successful to reduce incidents.

In CAPS and PACE, two units designed for specialized treatment for inmates with serious mental illness, incident rates decrease dramatically for inmates brought into the units. On average, inmates show a decrease in the rate of UOF in CAPS and PACE of 41% and 70% respectively, and a decrease in the rate of AOS of 48% and 67% respectively.

The Secure Unit and Enhanced Supervision Housing (ESH) were both created as alternatives to punitive segregation to manage highly violent and problematic inmates. Secure Unit serves the young adult population and ESH serves both young adults and adults. On average, inmates who are moved into Secure Unit and ESH show decreases in rates of UOF of 49% and 15%, respectively, and decreases in the rate of AOS of 100% in Secure Unit.

Additionally, our restarted General Population units continue to be effective. Inmates who move into these units show decreased rates of UOF (down 50%), AOS (down 40%), and slashings (down 59%).

## **Nunez Monitor Report**

The Nunez monitor's fifth compliance report was released last week. This report found that DOC has achieved substantial or partial compliance in 98% of provisions evaluated. This is the highest compliance rate we have attained so far. Importantly, DOC has improved from non-compliance to substantial or partial compliance in the following areas:

- Handheld Cameras;
- Timely service of disciplinary charges for UOF violations;
- Timeliness of Facility Conducted UOF Investigations; and
- Develop and Implement an age-appropriate classification system for 16-17 year olds.

The Monitor recognizes the Department's successes, noting that we have reached this level of compliance because we have, "worked diligently to develop and implement new policies, procedures, and training." The report also highlighted several areas where DOC is still facing challenges. The overall rate of UOF is trending downward, but we still have not met the primary goal of "reducing the use of unnecessary and excessive force." There are two main concerns in this

area. One is that our UOF numbers are still higher than we or the Monitor want them to be and increased during the reporting period (for those over the age of 18). The other challenge is that the UOF incidents are too often avoidable or disproportional.

Despite the tremendous progress we have made, which often goes beyond the requirements of the Consent Judgment, we expect to be better and continue to reexamine our policies, procedures, and operations to identify areas of improvement. To that end, we are launching a UOF Improvement Action Plan. This plan includes:

- Deploying special use of force de-escalation teams
- Boosting gang intel to stop violence before it triggers a use of force
- Increasing real-time video monitoring and analysis
- Revamping DOC's Rapid Review process to more quickly identify and correct unnecessary uses of force
- Assigning Mentoring Captains to provide staff with re-training

## **Legislation**

In addition to this important oversight topic, we are here today to discuss three pieces of legislation currently being considered by the Council. I will now speak to each of those bills.

### **Int. 779 and Int. 447: Reports on Taser Use and on Lockdowns**

Intros 779 and 447 both require the department to regularly report specific data. DOC appreciates the importance of transparency and we have worked to be as transparent as we can in the last few years. We support the idea of these bills, but would like to work with the Council to refine some details of these bills, such as ensuring that the definitions are consistent with DOC definitions.

As we discuss these new requirements, I also invite the Council to sit with us and review existing reporting requirements, to ensure that useful and meaningful information is being shared. NYC DOC is one of the most transparent law enforcement agencies in the country. We are proud of this transparency. We would like to ensure, though, that we are sharing meaningful information and our staff resources are used in the most effective way possible.

### **Int. 741: Elimination of Phone Call Costs**

Intro. 741 would require that DOC not accept revenue from phone calls and provide all phone calls at no cost. We appreciate the Council's initiative to relieve the financial burden for those in our custody and their loved ones. Since 2014, the Department has been in a revenue-sharing agreement with a vendor to provide inmate phone services. Revenue generated from inmate calls is remitted back to the City's general fund and categorized as miscellaneous revenue.

We have spoken to City Hall and OMB, and the City is open to reducing or eliminating the revenue and making calls as inexpensive as possible for inmates. We are already assessing what contract changes would be necessary to achieve this goal. A new procurement might be required, which would require a longer implementation window than the bill currently includes. We would like to work with Council to figure out how to make our telephone system as fair as possible, while maintaining the necessary services and safety features that the contractor provide. These changes are not for DOC alone to make, but we are happy to participate in these conversations moving forward.

It is important to note free phone calls are already provided in several circumstances. Indigent detainees receive three free calls per week and sentenced inmates receive two free calls per week. A free local call is provided to all detainees upon admission and phone calls to several specific phone numbers are provided at no cost. Additionally, aside from the phone calls, there are other valuable services the Department requires such as:

- The Department requires expensive hardened phones, which the company installs, maintains and replaces when damaged;
- The vendor provides advanced call recording technology, which allows us and our partner law enforcement agencies to effectively analyze conversations to investigate incidents and prevent future incidents of violence or contraband smuggling;
- The phone software includes voice identification services, so that we can identify whether someone is using someone else's ID and PIN.

I thank the Council for the opportunity to speak on all of these topics. My colleagues and I are happy to answer any questions that you have.