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Testimony of Executive Director Margaret Egan

City Council Oversight Hearing on “COVID-19 in City Jails and Juvenile Detention Centers”

May 19, 2020

Chair Powers, Chair Lancman and members of the Criminal Justice and Justice System Committees, my name is Margaret Egan. I am the Executive Director of the New York City Board of Correction. Thank you for the opportunity to speak to you today about the COVID response in the New York City Jail system. I would like to speak to you today about the Board’s response and what we are seeing in the jails through our oversight work.

Like all others, the New York City Board of Correction (BOC), the City’s independent jail system oversight agency, has been forced to quickly adapt to this new normal in response to the COVID-19 public health crisis. The Board has redirected its oversight, setting priorities to monitor both the Department of Correction (DOC) and Correctional Health Services (CHS)’ evolving COVID-19 response and facility compliance with agency plans; and DOC and CHS’ general operations and compliance with BOC Minimum Standards amidst the public health crisis. Our work seeks to independently and publicly document the scope of the public health crisis in the jails and the criminal justice system’s response to understand successes and challenges and, ultimately, ensure that lessons can be learned quickly.

At the beginning of the crisis, the Board called on all criminal justice system stakeholders to reduce the population of the jail. We believe this is one of the best tools at our disposal to minimize the transmission of COVID-19 in the jails. The Board has publicly advocated for the District Attorneys, defenders, City officials, New York State Department of Corrections and Community Supervision, advocates, and providers, to come together to release as many people as is safely possible. Since March 16, the population has been reduced by just over 1,600 people. However, we have seen in our daily analysis that admissions are beginning to increase again. This is concerning and we will continue to monitor the population.

Board of Correction COVID-19 Oversight Strategy

The Board also quickly began producing daily public reports outlining DOC and CHS's response to the pandemic. These daily updates, available on our website, include data on the number of people currently incarcerated who are confirmed or symptomatic for COVID-19, exposed but asymptomatic, DOC staff who have been confirmed, CHS staff who have been confirmed, and the number of people who have passed away in custody. We also include a full analysis of the jail population to show custody status as well as certain demographic information. We believe that these daily updates are critical to provide the public, defenders, advocates, policy makers, and families with information on what is happening in the jails.

In addition to daily data reports, the Board has developed a new, crisis-responsive jail monitoring program. Given our very small staff, our approach has been focused on leveraging the Board's access to DOC's data systems, surveillance cameras, grievance tracking system, daily sanitation supply audits, updated policies, preliminary incident reports, and complaints the Board receives directly from people in custody, staff, family members, and advocates. Additionally, Board Members and staff have had at least weekly calls with DOC and CHS leadership. There are certain obvious limitations to each of these methods but taken together, the Board seeks to provide an objective assessment of the response to the crisis and the function of the jails during the crisis while also raising issues for immediate action by DOC and CHS.

Based on guidance from the Mayor and DOHMH, Board staff have been working remotely since mid-March. For the last week, we have begun to slowly reintroduce in-jail monitoring taking a very targeted and strategic approach. The Board will continue to follow local guidance on agency work conditions and to reduce the risk for spreading COVID-19. The Board's oversight work in the jails will be guided by the "do no harm" principle, meaning the Board will prioritize the safety of BOC staff and the safety of all those who live and work in the jails when planning jail inspections.

Genetec Surveillance Camera Audits

On May 11, 2020, the Board issued a report on our observation of housing areas designated for confirmed COVID-19 patients, symptomatic patients, and those likely exposed but asymptomatic for adherence to DOC statements and CHS guidance. We reviewed Genetec surveillance cameras footage conducting 72 audits in 56 unique housing areas to monitor: (1) Social Distancing, (2) Use of PPE Among Staff, (3) Use of Masks Among People in Custody, (4) Phone Access and Cleaning, and (5) DOC Rounding Practices (in cell units).

Our observations found that while the majority of staff were observed wearing PPE including masks and gloves, there were challenges with people in custody wearing masks. We don't believe there are issues with mask availability, but we have recommended that CHS and DOC should identify and address barriers to the use of PPE for staff and people in custody and renew their efforts to educate on the importance and proper use of PPE. DOHMH has advised that public health communication should be conducted by non-security staff.

DOC Grievance System Analysis and Audits

Another critical piece of our oversight is to understand the COVID-related complaints submitted to DOC. The Board is working closely with DOC's Office of Constituent and Grievance

Services (OCGS), the office responsible for handling complaints. Board staff review COVID-related complaints daily, analyze grievance data, and audit complaint resolutions regularly providing analysis and feedback to OCGS. We plan to publish our own analysis and audit findings in the future.

Since March 5, OCGS has been tracking COVID-related complaints in three categories: Environmental (e.g., lack of access to PPE and cleaning supplies), Medical (e.g., concerns about COVID-19 exposure safety and access to medical care), and Staff (e.g., complaints about DOC staff from people in custody as well as complaints made by DOC staff members or their families regarding staff working conditions). As of May 5, the Department had received 1,029 COVID-related complaints, representing 18% of the 5,606 complaints received by DOC since March 5th when the Department began tracking COVID-complaints.

DOC Sanitation and Supply Availability Audit Analysis

Since March 16, the Department's Environmental Health Unit and Facility Operations office have conducted daily audits of a sample of housing areas at each facility to check for the availability of sanitation supplies and, as of April 8th, mask availability for people in custody and usage. DOC provides the Board with its documentation daily and Board staff analyze each audit. From April 5 through April 18, DOC audited an average total of 64 areas daily DOC-wide and an average of six areas per facility each day, ranging from an average of five areas at AMKC to an average of 12 areas at VCBC.

In general, the DOC audit documentation shows high rates of sanitation supply availability and that work orders are submitted for inoperable sinks identified. Board staff will seek to independently verify this documentation through jail monitoring, genetec review, and other oversight sources.

BOC Complaints

Everyday the Board receives complaints directly from people in custody, staff, family members, defense counsel, and advocates via phone, email, mail, and web form, just as we did before the crisis. Phone calls from jail to the Board are free and not monitored. Board staff developed a new complaint protocol to review these complaints and refer them to the appropriate agency for a response. The Board also reviews to identify systemic and urgent issues which are escalated to DOC and CHS as appropriate. From March 30 to April 30, the Board received 370 complaints. This is a 99% increase from the same period in 2019 when the Board received a total of 186 complaints. Of the 370 complaints received from March 30 to April 30, 2020, around a third (n=119) were related to COVID-19.

The Board's oversight work has been and will continue to be critically important to this crisis response. We have and will continue to provide necessary information to the public outlining essential data and independently confirming what is actually happening in the jails. We will continue to advocate for as small a jail system as is safely possible. And we will continue to recommend that DOC and CHS provide as much information to people in custody, staff, families, and the public at large. As in the community, it is a public health challenge for trusted

messengers to continue to deliver critical information on how people can protect themselves and the people around them. While a jail setting creates unique and increased barriers to this work and will take a creative and intensive approach, the importance of communication remains. The Board of Correction will continue to provide oversight and we will encourage the City to further its efforts to engage with people in custody, staff, and the public to ensure people are taking all necessary steps to protect themselves and their communities.

The number of people in custody in COVID-confirmed or symptomatic housing has dropped from a high of 286 people on April 1 to 67 people on May 17. DOC and CHS leadership and staff as well as people in custody who work in the jails and have taken measures to protect themselves should be proud of their efforts. However, the pandemic is not over and the risk of getting sick in the jails is still significant. Further, as the City carefully considers when and how it can re-open, the jail system must have clear, safe, and transparent plans for managing new risks introduced in coming months.

Thank you and we are now happy to take your questions.