

*Sent via email*

June 7, 2020

Ms. Jennifer Jones Austin, Chair  
Ms. Margaret Egan, Executive Director  
New York City Board of Corrections  
1 Centre St., Room 2213  
New York, NY 10007

Re: Department of Correction 2020 Heat Plan

Dear Chair Jones-Austin, Executive Director Egan and Members of the Board,

In advance of the June 9, 2020 Board of Correction meeting and the New York City Department of Correction's (DOC) presentation of its plan to manage heat in the City jails during the summer of 2020, we write to highlight for the Board particular areas of critical concern. Especially in light of the challenges posed by the COVID-19 pandemic, we ask the Board to evaluate the DOC 2020 heat plan closely to determine whether it ameliorates prior deficiencies and protects individuals in custody, and to monitor compliance and issue regular public reports throughout the summer.

Most housing areas in New York City jails are not air-conditioned. During summer, incarcerated persons are regularly subjected to extremely dangerous conditions of confinement. They are uniquely constrained in their ability to engage in self-help to cool down: unlike most people in free society, they cannot take a cold shower at will, or go to an air-conditioned space or a park with a sprinkler. Jails are, by design, confined spaces with little fresh air and poor ventilation. Public defenders in our City tell us that exposure to extreme heat is the most frequent complaint by people in custody during summer months. Fortunately, this is a predictable challenge: every summer in New York is hot, and DOC has had decades to learn to mitigate dangerous heat in its existing facilities.<sup>1</sup>

### **Background: Heat Wave of July 2019 and DOC's Inadequate Response**

Last summer, on July 18, the first day of a heat wave that would last until July 21, Mayor DeBlasio declared a heat emergency.<sup>2</sup> In response to deep public concern for the well-being of people held in the jails, the Board of Correction investigated conditions and issued a Final Report on NYC Jail Conditions During the July 2019 Heat Emergency (BOC Report).

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<sup>1</sup> For example, the heat plan from the 1990s, when there was a dramatically higher jail population, is attached. This plan was court-ordered in the *Benjamin* litigation, and eventually terminated in all but limited part when the City was able to meet its requirements. See Order Re: Heat Conditions, *Benjamin v. Horn*, 75 Civ. 3073 (S.D.N.Y. 2008); see also Rikers Island Jails and Heat Conditions: Consultant's Report, Susi Vassallo M.D., July 23, 2004 (attached).

<sup>2</sup> Documents from the summer 2019 heat season are attached.

The BOC Report found that DOC's response failed systemically on several fronts, particularly as to "heat-sensitive" populations – people suffering from certain physical or mental ailments that make them especially susceptible to heatstroke or other complications. *See* DOC Operations Order 07/15, Heat Sensitive Housing (setting forth criteria and procedures); Correctional Health Services Heat Protocol Policy (similar); DOC Criteria for Heat Sensitivity/At-Risk Conditions for Heat Related Illness. The BOC Report showed that facility leadership did not have access to the DOC list of heat-sensitive people, making it impossible to identify and transfer them to cooled housing areas. As a result, during the heat wave there were 140 incarcerated individuals "who were *not* housed in heat-sensitive housing" – yet, inexplicably, "they had not signed refusals or received 'authorized security overrides.'" Final Report, at 4. These individuals were exposed to extremely dangerous conditions. Temperatures reached 91.4 degrees in the Eric M. Taylor Center, 97.8 degrees in the Otis Bantum Correctional Center, 92.5 degrees in the Rose M. Singer Center, and 95.8 degrees in the Robert N. Davoren Center.

Moreover, even in housing areas nominally equipped with air-conditioning, these units either malfunctioned or were too weak for the task. Temperatures in *air-conditioned units* reached 85.9 degrees in the Anna M. Kross Center, 90 degrees in the George R. Vierno Center, and 83.5 degrees in the Vernon C. Bain Center. *Id.*

DOC's protocols for ameliorating the heat in other ways were simply ineffective in practice. Even though a central part of the cooling plan was frequent access to cool showers and provision of ice to people in custody, BOC "found housing areas with warm-to-hot shower and housing areas that had run out of ice." Final Report, at 6. We were told by DOC that many housing areas *cannot* provide cold water showers because the hot and cold water is pre-mixed.

DOC also promised to install fans in housing areas, but the BOC noticed many fans were inoperable, or not plugged in (due to insufficient number of electrical outlets). *Id.* One elected official who toured the facility noted fans sitting unopened in their boxes.<sup>3</sup> Additionally, many LAS clients reported that the fans provided little to no relief for incarcerated people in single-cell housing units, particularly those whose cells were farthest from the fans.

While these ameliorative measures, if actually implemented in a competent manner, may have provided some limited relief from the extreme heat, the BOC explained that the problem was larger than staff incompetence or indifference:

[T]he ultimate problem is inadequate infrastructure: there are not enough air-conditioned housing areas for the number of people currently detained. Jail areas without air conditioning are too hot and the mitigating responses too limited . . . People should not be detained or required to work under these conditions, which

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<sup>3</sup> *See* Brad Lander (@bradlander), TWITTER (July 21, 2019, 6:57 p.m.), <https://twitter.com/bradlander/status/1153076617218023427> (last visited July 22, 2019)

are inhumane, pose health risks, and make DOC's violence prevention efforts more challenging.

Final Report, at 7.

The Board also provided a series of recommendations for the DOC to mitigate the harm from future heat emergencies. *See generally id.* Since then, DOC closed Brooklyn Detention Complex, which had no air conditioning and poor ventilation, but the other facilities that reached unsafe temperatures are still open. DOC should address its plans for improving its response to high heat in 2020, and which of the BOC recommendations have been put into practice.

### **Essential Questions About the Heat Plan for 2020**

The City cannot repeat last year's mistakes. We ask the BOC to evaluate and monitor closely the DOC and Correctional Health Services (CHS) heat plan, and in particular, to provide complete information on the following:

#### **1. Are the CHS and DOC protocols for managing high heat consistent with the protocols for managing COVID-19?**

Protection from COVID-19 requires social distancing and frequent sanitization of high-traffic areas and surfaces, in particular of personal hygiene facilities like showers. Social distancing plans also may call for the restriction of movement within a facility or changes to recreation time. In a high-heat environment, this could force many incarcerated people to remain in overheated areas. Moreover, heat protection requires free access to cold showers; yet continuous high traffic into the shower areas creates a sanitation and distancing hazard. These are but a few examples of ways COVID-19 management intersects with heat management.

DOC and CHS should provide information on:

- Whether aspects of the 2020 Heat Plan conflict with COVID-19 management protocols, and how those should be reconciled to protect health;
- How the Department will facilitate *free access* to *cold* showers on high heat days;
- Whether use of fans are appropriate given COVID-19, given the dispersal of air and encouragement to congregate in smaller areas;
- How heat will affect compliance with mask wearing by staff and incarcerated people;
- How the Department will minimize the risk of exposure to COVID-19 when providing ice, including sanitation measures for ice receptacles and other equipment and ice distribution plans that minimize person-to-person contact and cross-contamination between units.

## 2. How will CHS and DOC ensure access to medical care to protect from heat-related illness?

Access to medical care is the foundation of the DOC heat protection plan, but as we have seen, the new phone system for “telehealth” and COVID-19 limitations have significantly changed how incarcerated people get access to clinicians. We are deeply concerned that these changes will undermine protection of heat-sensitive people.

Individuals whose health conditions render them particularly at-risk for heat-related illness are deemed “heat-sensitive” by CHS, and DOC must house them appropriately on high-heat days. Individuals are also supposed to be monitored by medical staff for symptoms of heat-related illness. But our clients face persistent difficulties in accessing CHS staff via the new telehealth system.<sup>4</sup> Many of those concerns are related to COVID-19. Clients tell us they are hesitant even to pick up the phones in their housing areas, which they must share with everyone else in their units, noting to us how infrequently those phones are cleaned. They also tell us how difficult it is to practice social distancing while waiting to use the phones, putting them in an impossible situation in which they must choose between accessing a medical provider or following guidelines from public health authorities. Heat-sensitivity raises a similarly serious need for observation by medical professionals. If a person in custody is at risk for heat exhaustion or stroke, CHS cannot rely on the patient to affirmatively seek medical attention—they may require rounding so that clinicians can observe whether those in custody are exhibiting symptoms evincing a need for immediate care.

Other concerns pertain to failures in the telehealth system itself: clients continue to tell us that the phones ring without being answered, or that they leave a message but never hear back. We hear ongoing reports that regardless of whether clients speak to CHS staff or must leave a voicemail, they do not receive follow-up communication with medical providers.

Lastly, we note two aspects of DOC’s prior heat management operations that may endanger human health: “security overrides” of medical determinations to place a heat-sensitive individual in air-conditioned housing; and the reliance on reported verbal “refusals” by incarcerated people to move to air-conditioned housing. Both provisions are highly subject to abuse.

BOC must ensure that the DOC and CHS system for patient access will:

- Provide individuals with a fully sanitized and safe way to contact clinical staff at all hours;
- Provide for rounding or monitoring of housing areas to identify people showing symptoms of heat related illness and assess the efficacy of cooling measures.

BOC must also ensure that:

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<sup>4</sup> We and our fellow defender organizations raised concerns about the new telehealth system in a letter to the Board prior to the May 12, 2020 public meeting. Available at [https://www1.nyc.gov/assets/boc/downloads/pdf/nyc\\_defender\\_letter\\_5\\_8\\_2020.pdf](https://www1.nyc.gov/assets/boc/downloads/pdf/nyc_defender_letter_5_8_2020.pdf).

- Any “security overrides” or other determinations regarding placement in air-conditioned housing on security or classification grounds are medically sound;
- Refusals of offers of air-conditioned housing are provided on videotape, which is audited by BOC.

### **3. What housing areas are air-conditioned, and who may be housed in them?**

Attached is the 2019 list of air-conditioned housing units in DOC. DOC should provide a current list, as many units on this list are noted to have been closed, and may have been re-opened. Moreover, many of these nominally air-conditioned areas struggled or failed to maintain a safe temperature during 2019’s heat wave. The list of air-conditioned areas should reflect whether the air conditioning has been tested and fixed, if needed, to provide the requisite cooling.

COVID-19 necessitates further measures. First, DOC must identify the safe capacity for each of these housing areas *given COVID-19* and the concomitant need for safe separation in living quarters. As this is a public health decision, BOC should ensure CHS approves any such plan.

Second, DOC must identify what specific micro-populations are currently housed, or may be housed, in each of these air-conditioned areas, given that COVID-19 protection relies on keeping several populations separate. People in custody who contract the virus and become ill may also require climate-controlled housing placements while they recover.

In particular, BOC should obtain and publish the DOC capacity and plan for housing the heat-sensitive members of the following populations in air conditioned areas:

- Confirmed positive for COVID-19
- Unconfirmed but symptomatic or suspected COVID-19
- Asymptomatic but exposed to COVID-19
- Other COVID quarantines
- Transgender individuals or others in need of Special Consideration housing
- People needing mental observation
- People needing protective custody
- People in restrictive status like the Secure Unit or Enhanced Supervision Housing
- People needing medical care independent of COVID-19

### **4. How will DOC protect individuals locked in individual cells from heat illness?**

Special housing units that lock individuals into non-air-conditioned cells pose especially high risks during a heat emergency. Last summer at the Enhanced Supervision Unit at OBCC, DOC held individuals in solitary confinement behind solid doors for up to *25 hours* per day, as the requisite 7

hour lockout period alternated between mornings and afternoons. Solid cell doors hold heat, block cross-ventilation and prevent monitoring of temperature conditions or a person's health condition. Even a healthy person is at extreme risk of heat-related illness when confined in this manner for such an extended period of time. The BOC report found that temperatures in ESH units reached 97.8 degrees during the July 2019 Heat Wave.

History has shown that the Department *cannot* keep its individual cells at a habitable temperature on the high heat days that are an ordinary part of New York summers. On such days, it is imperative that the Department *move all individuals out of closed cells*.

The heat risk is further elevated when DOC chooses to lock in entire housing units, such as during searches or alarms. These lock-in periods are no brief interludes, but can extend through the heat of the day and indeed, for days on end.

DOC and CHS should address:

- The cooling plan for individuals locked into cells in the summer;
- The housing plan for removal of such individuals from cells in high heat conditions;
- Protocols for taking temperature readings inside cells, and how those will be audited;
- The temperature at which individual cells are not habitable;
- Medical attention to individuals in cells.
- Protocols for ensuring lockdowns do not result in people being held in hot cells.

## Conclusion

We ask DOC and CHS to provide the above information to allow the public to assess whether incarcerated members of our communities are being kept safe both from heat related illness and exposure to COVID-19, and ask BOC to monitor vigilantly and report frequently during this summer.

Very truly yours,

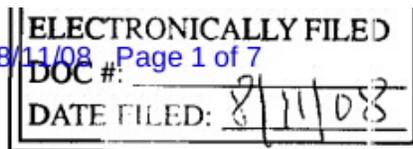
/s/

Mary Lynne Werlwas  
Veronica Vela  
Robert M. Quackenbush  
Kayla Simpson  
David Billingsley

Attachments:

1. Order Re: Heat Conditions, Benjamin v. Horn, 75 Civ. 3073 (S.D.N.Y. 2008).
2. Rikers Island Jails and Heat Conditions: Consultant's Report, Susi Vassallo M.D., July 23, 2004.
3. New York City Department of Correction, Air-Conditioned Housing Units (received March 3, 2020)
4. Letter to Department of Correction From Legal Aid Society Re: Heat Emergency in the City Jails, July 19, 2019.
5. Board of Correction, New York City Jail Conditions and Operations During Heat Emergency, July 19-21, 2019.
6. Letter to Mayor's Office of Criminal Justice and Department of Correction From Legal Aid Society, July 26, 2019.
7. Letter from Department of Correction to Legal Aid Society, July 30, 2019.
8. Letter to Mayor's Office of Criminal Justice, Department of Health and Mental Hygiene and Department of Correction From Legal Aid Society, August 8, 2019.
9. Letter from Department of Correction to Legal Aid Society, August 21, 2019

Case 1:75-cv-03073-LAP Document 498 Filed 08/11/08 Page 1 of 7  
 UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK



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 JAMES BENJAMIN, et al.,

Plaintiffs,

**ORDER RE: HEAT  
 CONDITIONS**

-against-

75CV3073 (HB)

MARTIN F. HORN, et al.,

Defendants.

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**Hon. HAROLD BAER, JR., District Judge:**

**WHEREAS**, this Court held hearings pursuant to the Prison Litigation Reform Act (“PLRA”), 18 U.S.C. § 3626(b)(3), including a hearing conducted in May 2000 (the “May Hearing”) as to the constitutionality of certain of the Consent Decree provisions; and

**WHEREAS**, following the May Hearing, this Court issued an order dated April 26, 2001 (“April 26, 2001 Order”) in which the Court found that certain of Defendants’ practices concerning environmental health in various correctional facilities operated by Defendants were constitutional and others were unconstitutional; and

**WHEREAS**, the April 26, 2001 Order required the Department of Correction (the “Department” or “DOC”) to take certain steps to address deficiencies in the environmental conditions of those facilities, specifically including extreme temperature conditions in the applicable facilities; and

**WHEREAS**, this Court issued an Order dated December 22, 2004, that required Defendants to take various steps to ameliorate heat conditions and increase detainee safety during warm weather; and

**WHEREAS**, the December 22, 2004 Order (the “December 22, 2004 Order”) provided that the Office of Compliance Consultants (the “OCC”) would monitor the Department’s compliance with that Order, and that such Order would terminate on October 15, 2005, if the OCC did not find evidence of current and ongoing constitutional violations of Plaintiffs’ rights; and

**WHEREAS**, the Court has subsequently extended the December 22, 2004 Order, most recently in an Order Re: Heat Conditions, dated May 31, 2006, and also entered two



## Riker's Island Jails and Heat Conditions: Consultant's Report

Susi Vassallo, M.D.

July 23, 2004

### Introduction

Body temperature is maintained within a safe physiologic range by a process known as thermoregulation. The primary mechanisms that cool the body are sweating and dilation of skin blood vessels, both of which facilitate heat exchange at the skin. Persons with conditions that impair thermoregulation have a significant risk of heat illness during exposure to elevated environmental temperatures. Heat-related illnesses occur when the body's temperature control system is overloaded. Although heat stroke is the most well recognized illness that results from a hot environment, death from all causes increases during prolonged heat stress. (1-8) Data from the Centers for Disease Control and Prevention (CDC) show that from 1979-1999, 8015 deaths in the United States were related to heat conditions. In several studies, the mortality from heatstroke is 30-80%. (3) Many heatstroke victims survive with significant heat-related morbidity. (1,2,5,9)

### Definition of Heatstroke

Heatstroke is defined as a body temperature greater than 105.5<sup>0</sup>F and an alteration of the mental status. There are two kinds of heat stroke; exertional and classical. Exertional heatstroke occurs in the exercising individual. Classical heat stroke is not associated with exercise and is most common in the elderly. In heatstroke, the body's temperature rises rapidly, and collapse may occur very quickly, with little or no warning. (13,20,30) Two-thirds of heatstroke victims are reported to be unwell for less than one day before being hospitalized or found dead. (30) Some victims went to sleep apparently well and were found the next day critically ill, or dead. In one report, two elderly patients who presented with heat stroke were symptomatic for less than six hours. This has important implications; even frequent observations of persons at high risk are unlikely to give adequate warning of impending collapse. (30)

## Risk Factors for Heat Stroke

### Age

Of the 8015 deaths reported by the CDC over 20 years, 45% of deaths occurred in persons aged 65 years or older. (21) The risk of heat stroke was 10-12 times greater for these individuals. According to the Department of Correction (DOC) approximately 0.2-0.4% or 39-60 inmates are over the age of 65. The susceptibility of the elderly to heat illness is well understood. Compensatory mechanisms are inadequate; the elderly are less likely to increase their cardiac output and to vasodilate in hot weather. (25) They have a blunted thirst response, predisposing them to heat illness even in the presence of an adequate water supply. (19) In addition, the efficiency of sweating decreases with age. (26,27) Elderly patients may not be recognized as ill, resulting in a delay to treatment. Heatstroke in the elderly is associated with a mortality of 71%. (25)

### Medications

Medications that impair the ability of the body to lose heat, or interfere with salt and water balance, increase the risk for heat illness. (12) There are several classes of these drugs.

1. Drugs that depress cardiac function, or cause dehydration, impair cardiac output. In other words, during hot weather, the heart cannot pump hard or fast enough to meet the increased demand for body cooling. In normal conditions, 0.5 liters of blood circulate to the skin per minute. In heat stress conditions, 8-10 liters of blood must circulate per minute in order for the body to cool. Common antihypertensive drugs and drugs used after a heart attack, known as B-blockers, calcium channel blockers and diuretics, fall into this category. Diuretics decrease cardiac output by reducing the amount of blood volume circulating in body.

2. Sympathomimetic drugs cause narrowing of the blood vessels, or "vasoconstriction". Vasoconstriction results in decreased blood flow to the skin, inhibiting the loss of heat from the body. Examples of sympathomimetic medications include common decongestants and over the counter cold remedies. Sympathomimetics have been associated with heat stroke in numerous reports.

3. Anticholinergic drugs cause sweat gland dysfunction. Sweat glands work through the neurotransmitter called acetylcholine; anticholinergic drugs block the action of this neurotransmitter. Examples of drugs having an anticholinergic effect include the antihistamines, the cyclic antidepressants, the phenothiazines (i.e. Thorazine) and butyrophenones (i.e. Haldol). Phenothiazines and butyrophenones are also called neuroleptics or tranquilizers. In addition to their anticholinergic effects, the phenothiazines and butyrophenones further impair thermoregulation by blocking vasodilation and interfering with the part of the brain that regulates temperature, called the hypothalamus. In other words, the thermostat is broken. This results in disruption of signals from the brain, further impairing sweating and vasodilation, as well as other heat loss responses. (1,11,12,19)

#### Precipitating Medical Conditions

Certain medical conditions increase the risk for heatstroke. Inmates with these conditions, when subjected to heat stress, are at much greater risk for heat illness. *Heart disease* and *diabetes* are two of the most important. Diabetes causes vascular insufficiency and renal impairment, thereby predisposing to heatstroke. People with dementia or psychiatric disease are at risk of heatstroke because of their impaired behavioral responses to heat stress.

Published studies describe several additional precipitating factors in heatstroke.

1. Fatigue associated with a recent deficit in sleep
2. Poor physical conditioning
3. A recent febrile illness
4. Recent heat-related symptoms such as thirst or weakness
5. Dehydration
6. Obesity
7. Extensive skin conditions

The Department has measures in place to identify these precipitating medical conditions. Within 24 hours of an inmate's admission into its custody, the Department performs a complete intake medical examination. This examination could potentially identify

chronic and acute illness that would put a person at a greater risk of heat-related illness. The inmate might self-report that he/she previously suffered heat stroke. This would be extremely uncommon, and could be substantiated by review of the inmate's hospital records (individuals with heatstroke would have been hospitalized). Inmates can sign up for sick call within their housing area and, if experiencing illness, can request uniformed staff to escort them to the clinic where medical treatment is available. Additionally, DOC housing areas are under constant surveillance by DOC officers. However, any individual experiencing heat stroke would be unable to call for help and could escape an officer's observation. The sick call system is inadequate where heat stroke is concerned as the inmate by definition is in an altered state of consciousness and the onset of illness may be rapid and without warning.

#### Living Conditions Associated with Heatstroke

Living alone increased the risk of heatstroke by almost 3 times. This may have implications for inmates as being confined or socially isolated (see section on CPSU) is a risk factor for increased morbidity and mortality during heat waves. Although inmates are less isolated than individuals living in an apartment by themselves, nonetheless, subtle changes in their physical or mental condition could potentially go unnoticed by fellow inmates and by the uniform staff on duty

#### Heat Stroke Prevention

##### Air Conditioning

Accessing air conditioning reduces heat-related mortality. Having a working air conditioner was associated with an 80% reduction in the risk of death due to heat and cardiovascular disease and a 66% reduction in mortality due to cardiovascular disease alone. In one study it was estimated that 50% of the deaths related to a heat wave could have been prevented with a working air conditioner. The CDC recommends that people who cannot afford air conditioning in their homes should spend at least some time each day during hot weather in an air conditioned environment: exposure to air conditioning for even a few hours a day will reduce the risk of heat-related illness. There is a strong

inverse relationship between the number of hours spent in air-conditioning each day and heatstroke.

### Fans

Electric fans may provide some degree of comfort; however, it is well documented in the medical literature that fans alone do not prevent heat stroke when heat and humidity become extreme.

### Water

Simple measures such as increasing fluid intake can reduce heat-related mortality. Free access to water is mandatory, however, when subjected to heat stress, humans will not drink enough and will suffer from dehydration, predisposing to heat stroke.

### Showers

The CDC recommends frequent cool showers if exposure to heat cannot be avoided.

## Recommendations

### Medical Conditions

It is my recommendation that the following medical conditions necessitate the placement of the inmate in air conditioning when the temperature exceeds 88<sup>0</sup> F within the affected inmate's housing area. This temperature is chosen based on the current evidence for increased mortality occurring when the temperature reaches 88<sup>0</sup> F in New York City. (Kalksein, Marzuk).

### *Inmates Placed in Air-Conditioned Housing Area after Initial Medical Examination*

1. All inmates  $\geq 65$  years old.
2. All inmates with a history of congestive heart failure or myocardial infarction. Congestive heart failure implies a level of cardiac dysfunction that would result in the inability to thermoregulate adequately. Similarly, an individual with documented myocardial infarction should be in air conditioning. The ability to respond to the stress of

heat would be expected to be impaired in both of these conditions. The literature is replete with individuals with these two conditions who suffer from heat stroke and the risk is great. These individuals are simply not able to cope physiologically without substantial risk of heatstroke.

3. All inmates with a history of hospitalization for heatstroke.
4. All inmates  $\geq 55$  years old with insulin dependent diabetes mellitus.
5. All inmates with a diagnosis of dementia. The diagnosis of dementia requires substantial impairment in cognitive abilities. These inmates by definition have cognitive deficits causing impairment such that they lack the orderly thought needed to act decisively on behalf of themselves, particularly when in crisis. Any inmate with a documented diagnosis of dementia should be placed in air conditioning. Individuals with dementia, when under stress from the discomfort of heat, will often be unable to take simple steps to alleviate distress.
6. All inmates with Parkinson's disease.
7. All inmates who are determined by medical clinician/psychiatrist to be incapable of self-managing during periods of high heat because of his/her mental status. (This entry was recommended by the DOC/DOHMH to replace both the dementia recommendation above and to replace the author's original recommendation of "confusion or change in the inmate's mental status". The author has adopted this language and deleted the recommendation regarding a change in mental status, but elected to keep the recommendation that inmates diagnosed with dementia be placed in air-conditioned housing areas.)

#### *Inmates Placed in Air-Conditioned Housing Areas upon Diagnosis*

The sequence of events in the progression of heat stress to heat stroke is well described. There is an extensive body of literature, and it is well accepted, that intercurrent illnesses such as those listed below put an individual at serious risk of heat stroke. We have a model of progression of heat stress to heat stroke that describes a direct physiologic relationship between the two conditions. (1) It is my recommendation that inmates diagnosed with the following condition be placed in air-conditioned housing areas upon diagnosis.

1. Any inmate with new onset confusion. Confusion may be the earliest symptom of heat stroke.
2. All inmates diagnosed with heat exhaustion. Heat exhaustion is characterized by intense thirst, weakness, discomfort, anxiety, dizziness, fainting and headache. Core temperature may be normal, below normal, or slightly elevated. (1)
3. All inmates who faint (heat syncope).
4. All inmates presenting to the infirmary with an acute illness and a documented temperature  $\geq 101^{\circ}$  F. Although treatment of fever with an antipyretic (fever lowering medicine such as acetaminophen) will temporarily lower the temperature, the underlying illness remains. Antipyretics work for a couple of hours and treat only the symptom of fever, not the underlying cause. Once the inmate has been diagnosed with a febrile illness, he should be protected from heat stress and put into an air-conditioned housing area until his condition improves and he no longer requires antipyretics. The increased risk of heat stroke in the setting of an intercurrent illness has been elucidated clearly for 60 years in the medical literature. One of the most respected and prolific researchers and authors in the area of heat illness, and the coauthor of the New England Journal of Medicine review on heatstroke, James P. Knochel M.D. emphasized in a recent phone conversation with the author the role that an intercurrent febrile illness plays in the risk for heat stroke, even if the temperature is treated with antipyretics. (Phone conversation between James P. Knochel and the author, February 23, 2004)
5. All inmates diagnosed with vomiting and diarrhea severe enough to cause dehydration. Because of the importance of hydration in maintaining body cooling mechanism (sweating and increased cardiac output) these inmates should be placed in air conditioning until the illness resolves.
6. All inmates diagnosed by a medical clinician/psychiatrist to be incapable of self-managing during periods of high heat because of his/her mental status.

Currently, the Department houses inmates with the following medical conditions in the air-conditioned infirmaries and this should be expected to continue.

1. All inmates confined to a wheelchair secondary to paralysis.
2. All bed bound inmates.

3. All inmates with scleroderma or scars due to burns involving > 20% body surface area.

According to the Department, although there are approximately 5200 available beds in air-conditioned housing areas, simply moving inmates in and out of these housing areas is limited by the physical infrastructure on Riker's Island, the limitations on frequent intra-facility movements and classification issues. This Report cannot address these limitations, as the author is not an expert in correctional issues. Rather, this Report recommends that the Department automatically place those inmates within the categories listed above in air-conditioned housing areas, and make further efforts to maximize the use of its air-conditioned beds during periods of hot weather. Air conditioning is the best method to reduce the risk of heat stroke and all efforts should be made to put as many inmates as possible within air-conditioned housing areas.

### Medication

Inmates taking the following classes of medications are at high risk for heat illness in hot weather.<sup>1</sup> The medications on this list represent those that place the inmate at highest risk for heatstroke. Antidepressants, phenothiazines, butyrophenones and newer generation antipsychotics have similar pharmacological characteristics that impair heat loss. Antidepressants and antipsychotics treat the mental conditions for which they are prescribed by affecting neurotransmission. These neurotransmitters are found throughout the body.

Additionally, all of the medications listed below interfere with hypothalamic neurotransmission; this is after all why they work. All impair the function of the body's thermostat. All have additional properties including disturbance of sweat gland function, impairment of vasodilation, cardiac impairment, and predisposition to neuroleptic malignant syndrome.

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<sup>1</sup> This list is drawn from the *Formulary of the Correctional Health Services, Therapeutic List of Drugs*.

Therefore, the author strongly recommends that all inmates on the following medications should be moved into air conditioning when the temperature exceeds 88 ° F in the housing area.

*Antiparkinsonian agents*

Benzotropine

Trihexyphenidyl

*Cardiac agents*

1. *Calcium channel antagonists*

Amlodipine

Diltiazem

Nifedipine

Verapamil

2. *Beta-adrenergic antagonists*

Metoprolol

Atenolol

Propranolol

3. *Diuretics*

Furosemide

Hydrochlorothizide

*Antipsychotics*

Chlorpromazine (Thorazine)

Fluphenazine (Prolixen)

Haloperidol (Haldol)

Thioridazine (Mellaril)

Thiothixene (Navane)

Mesoridizine (Serentil)

In addition, the author believes that inmates on the following medications should also be placed in air-conditioned housing areas under the same heat conditions, but due to the

Department's concern about the number of inmates the list of medications listed below would include, has agreed not to recommend that these inmates be moved into air-conditioned housing areas.

*Antihistamines*

Chlorpheniramine

Diphenhydramine

Promethazine

*Antimuscarinics/antispasmodics*

Atropine

Belladonna alkaloids with Phenobarbital

*ACE Inhibitors*

Captopril

Enalapril

Lisinopril

*Antidepressants*

Amitriptyline

Doxepin

Nortriptyline

Bupropion

*Antipsychotics*

Perphenazine

Quetiapine

Risperidone

Trifluoperazine

*Miscellaneous anxiolytics, sedatives and hypnotics*

Hydroxyzine

*Antiemetics*

Meclizine

Prochlorperazine

*Special mention, not on formulary*

*Anti-seizure*

Topiramate

Additional Measures during Hot Weather

1. Cold Water

Iced water should be available to all inmates at all times during hot weather. The Department currently delivers iced water during hot weather sometime between 12 and 4pm, as well as a cold beverage with lunch and dinner. Cold tap water is and should continue to be provided to inmates 24 hours a day. Each tour should insure the availability of cold water.

2. Cold Showers

The Department should continue the practice of allowing frequent cold showers. In those housing areas where the design of the shower prohibits cold showers, the Department must develop a solution prior to the onset of next summer. By cooling the body and enhancing evaporation, an important heat loss mechanism, cold showers provide relief from heat stress.

3. Fans

The Department should continue the practice of placing two operable fans in each housing area throughout the summer. Although fans provide some degree of comfort, there is ample evidence that fans do not prevent heat stroke when heat and humidity are high. (2-8, Kilbourne)

#### 4. Clothing

Loose clothing, shorts and T-shirts should be provided to maximize cooling

#### 5. Exercise

All planned exercise activity should be moved to the coolest part of the day. The Department has stated that this is not possible due to "security constraints and the numbers/ classifications of inmates who must be scheduled at different times." Shaded areas for exercise and free access to water are recommended.

#### 6. Education of inmates

The Department places notices in each housing area, the gyms, CHS clinics and receiving room in both English and Spanish that alert inmates of heat risk and remind inmates to take certain steps during periods of hot weather. Inmates are reminded to go to the clinic should they feel detrimental effects from the heat. Medical staff must alert inmates whose medications increase the likelihood of heat-related illness. Assuming that these steps are consistently taken, the Department should also make announcements in both Spanish and English warning inmates of heat risks and reinforcing preventative measures.

#### 7. Education of Corrections Staff and Health Care Workers

Formal education concerning risks for heat illness should be provided to corrections personnel, physicians and other health care professionals. Correctional Health Services ("CHS") requires the CHS Medical Director to distribute a Heat Alert Information Sheet to its facilities, including the Department, before Memorial Day or at the first sign of hot and humid weather (above 85<sup>0</sup> F), whichever occurs first. Also, the Department of Mental Health and Hygiene ("DOHMH") pharmacists publish a weekly list identifying those inmates whose prescribed medications place them at a greater risk of heat-related illness. This list of inmates is supposed to be distributed to the deputy wardens for programs and the movement captains within the jail. However, during the author's visit to the jails, Department staff evidenced little knowledge of the list. There was no evidence of any meaningful use of this list.

## 8. Emergency Treatment of Heatstroke

Procedures must be in place for emergency cooling measures to be applied to anyone with heat stroke. If an inmate collapses with an alteration of consciousness during hot environmental conditions, the core body temperature should be measured as soon as possible by a rectal probe (other thermometers may give a reading of 105-106<sup>0</sup>F as this is their upper limit of measurement). Cooling measures must begin immediately and should not be delayed until a temperature is obtained or the inmate is transferred to a hospital or clinic. Cooling measures include moving the inmate to a cooler environment, removing the clothes if possible, and spraying the skin with water while continuously fanning. When it becomes available, application of ice to the entire body facilitates rapid cooling and should be accomplished as quickly as possible while simultaneously performing the above cooling measures. Death and disability are directly related to the time the body temperature is dangerously elevated.

## 9. Emergency preparedness

In case of severe heat conditions in New York City causing extreme temperatures in the jails, there should be in place a disaster plan whereby the safety of all inmates, not only those determined to have risk factors, would be assured. In the event of such heat conditions, Department will notify its officers to specifically monitor "the hot housing areas" for instances of heat stress or heat related illness. While these housing areas should be closely monitored, in the event of such extreme heat conditions, all Department staff should be notified in all non-air conditioned housing areas. The Department is also looking into alerting its staff at each roll call. This will hopefully be adopted.

## 10. Central Punitive Segregation Unit (CPSU)

In CPSU, inmates are housed in cells with solid doors. There is inadequate cross ventilation and the inmates are locked in their cells for most all of the day, thereby eliminating the usefulness of fans in the common areas. In addition, due to programmatic and security concerns, the Department does not permit CPSU inmates to have unlimited access to the showers and only provides ice at the midday meal. The Department tried a number of solutions to alleviate the temperatures in these cells, but none were successful.

While a solution is beyond the author's expertise, nonetheless, one must be implemented. In fact, it is difficult to conceive of an adequate solution short of air conditioning given the current physical structure of this part of the jail and the security concerns generated by these inmates. Currently, these inmates are at grave risk during the environmental conditions of the summertime temperatures. Further steps must be taken.

#### Summary

There are published reports in the lay press of heat stroke causing death in inmates in other states, and there are published legal documents finding excessive heat causing serious illness in inmates. (31-38) While, according to the Department, there have been no heat-related deaths on Rikers Island, this information is not closely tracked and thus no firm conclusions can be drawn. The author understands that the Department does not currently have mechanisms in place to track the effects of heat waves on inmate's health. These effects would include extreme heat leading to the worsening of preexisting medical conditions such as diabetes, kidney disease, heart disease or HIV; heat syndromes including heat stroke; suicides; increased violence during heat waves, or deaths from any cause. Even if one accepts that no heat-related deaths have occurred, there is a plethora of medical information about the risks of excessive heat stress on individuals. Therefore, while the Department has taken significant positive steps in its response to excessive heat conditions, nonetheless, the recommendations detailed above not already implemented should be adopted as soon as possible. Most important, the Department should increase the number of inmates in air-conditioned housing areas.

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NEW YORK CITY  
DEPARTMENT OF CORRECTION  
AIR-CONDITIONED HOUSING UNITS

1	2	4
FACILITY	HOUSING AREA	BEDS AT STANDARD
AMKC	WEST 17LA	50
AMKC	WEST 17LB	50
AMKC*	WEST 17UA	49
AMKC	WEST 17UB	50
AMKC	WEST 18UA	50
AMKC	WEST 18UB	50
AMKC	WEST 19LA	50
AMKC	WEST 19LB	50
AMKC	WEST 19UA	50
AMKC	WEST 19UB	50
AMKC	DORM 1 UPPER	50
AMKC	DORM 2 MAIN	50
AMKC	DORM 2 UPPER	50
AMKC	DORM 3 MAIN	50
AMKC	DORM 3 UPPER	48
AMKC	DORM 1 MAIN	0
AMKC	MOD 18LA	50
AMKC	MOD 18LB	50
AMKC	DORM 4 MAIN	46
AMKC	DORM 4 UPPER	49
AMKC	DORM 1 TOP	48
AMKC	DORM 2 TOP	50
AMKC	DORM 3 TOP	49
AMKC	DORM 4 TOP	50
AMKC	QUAD LOWER 5	31
AMKC	QUAD LOWER 6	31
AMKC	QUAD LOWER 7	31
AMKC	QUAD LOWER 8	31
AMKC	MOD 1L A	16
AMKC	MOD 1L B	18
AMKC	MOD 1U A	18
AMKC	MOD 1U B	18
AMKC	MOD 9A	50

NEW YORK CITY  
DEPARTMENT OF CORRECTION  
AIR-CONDITIONED HOUSING UNITS

FACILITY	HOUSING AREA	BEDS AT STANDARD
GRVC	13A	50
GRVC	13B	35
GRVC	15A	50
GRVC	15B	50
GRVC	17A	35
GRVC	17B	35
GRVC	19A	40
GRVC	19B	40
MDC	4 NORTH	46
MDC	4 SOUTH	46
MDC	5 NORTH	46
MDC	5 SOUTH	46
MDC	6 NORTH	46
MDC	6 SOUTH	46
MDC	7 NORTH	46
MDC	7 SOUTH	46
MDC	8 NORTH	60
MDC	8 SOUTH	46
MDC	9 NORTH	12
MDC	9 SOUTH	24
MDC	4 WEST	34
MDC	5 EAST	32
MDC	5 WEST	34
MDC	6 EAST	32
MDC	6 WEST	34
MDC	7 WEST	34
MDC	8 EAST	32
MDC	8 WEST	34
MDC	9 EAST	26
MDC	9 WEST	26
MDC	10 WEST	26
MDC	11 EAST	22
MDC	11 WEST	22

NEW YORK CITY  
DEPARTMENT OF CORRECTION  
AIR-CONDITIONED HOUSING UNITS

FACILITY	HOUSING AREA	BEDS AT STANDARD
NIC	4N	0
NIC	4S	29
NIC	5N	31
NIC	5S	29
NIC	6N	31
NIC	6S	29
NIC	DORM 1	42
NIC	DORM 2A	29
NIC	DORM 2B	27
NIC	DORM 3-MDP	3
NIC	DORM 4	26
NIC	DORM 4B	29
NIC	DORM 4-MDP	2
NIC	DORM 3	39
RMSC	B 10	48
RMSC	South 2A	50
RMSC	South 2B	50
RMSC	East 3A	50
RMSC	East 3B	50
RMSC	South 3B	50
RMSC	South 4B	50
RMSC	South 5A	50
RMSC	South 5B	50
RMSC	B 9	44
RMSC	East 1A	50
RMSC	East 1B	50
RMSC	East 4A	50
RMSC	East 4B	50
RMSC	East 2A	50
RMSC	South 3A	50
RMSC	South 4A	50
RMSC	B 11	30
RMSC	B 12 Lower	16

NEW YORK CITY  
DEPARTMENT OF CORRECTION  
AIR-CONDITIONED HOUSING UNITS

FACILITY	HOUSING AREA	BEDS AT STANDARD
RNDC	MOD 2 N	30
RNDC	MOD 3US	30
RNDC	MOD 8S	30
RNDC	MOD 1S	30
RNDC	MOD 1N	30
RNDC	MOD 3UN	30
RNDC	MOD 4LN	48
RNDC	MOD 4LS	48
RNDC	MOD 4UN	49
RNDC	MOD 4US	49
RNDC	MOD 2 S	30
VCBC	1A/A	50
VCBC	1A/B	50
VCBC	1B/A	50
VCBC	1B/B	50
VCBC	2A/A	50
VCBC	2A/B	50
VCBC	2B/A	50
VCBC	2B/B	50
VCBC	2C/A	50
VCBC	2C/B	50
VCBC	3A/A	50
VCBC	3A/B	50
VCBC	3B/A	50
VCBC	3B/B	50
VCBC	3C/A	50
VCBC	3C/B	50
WF	SPR 1	14
WF	SPR 2	14
WF	SPR 4	14
WF	SPR 6	14
WF	SPR 7	14
WF	SPR 8	14
WF	SPR 9	14

July 19, 2019

Commissioner Cynthia Brann  
New York City Department of Correction  
75-20 Astoria Blvd.  
East Elmhurst, NY 1137

Re: Heat Emergency in the City Jails

Dear Commissioner Brann:

New York City has activated its Emergency Heat Plan to address what Mayor DeBlasio calls “the very dangerous heat situation coming up this weekend.” It is disturbing that the notice contains no information from the Department of Correction and that the Department of Correction did not brief the public at the conference shown in the link. Please advise us immediately how the Department of Correction intends to supply cooling shelters in the City jails.

Most crucially, we ask that the City move all individuals confined to their cells to air-conditioned units. This includes individuals held in Enhanced Supervision Housing, who are typically locked into un-air-conditioned cells for a minimum of 14 hours, and up to 23 hours.

When people are not in air-conditioned areas, the City must provide free and continual access to cool showers and ice to all persons. This includes individuals held in Enhanced Supervision Housing. Under no circumstances should any person in the City be locked into a room without access to ice baths, cold water showers, potable drinking water or air conditioning this weekend.

Since, as the Mayor noted, “heat stroke can be fatal,” we further ask that the correctional health care staff engage in constant rounding to assess heat-related health risks.

The City’s release is reprinted below, with some sections highlighted.

Very truly yours,

Mary Lynne Werlwas  
Director

cc: Heidi Grossman, General Counsel  
Brenda Cooke, Chief of Staff  
Zachary Carter, Corporation Counsel  
Charles Orsland, Office of the Corporation Counsel  
Jacqueline Sherman, Board of Correction

Reprinted from: <https://www1.nyc.gov/office-of-the-mayor/news/353-19/mayor-de-blasio-nyc-emergency-management-health-department-department-social-services> (7/19/19, 10:40 a.m.)

# Mayor de Blasio, NYC Emergency Management, Health Department and Department of Social Services Update New Yorkers on Extreme Heat

July 17, 2019

Video available at: [https://youtu.be/o6fJ\\_5ogO0c](https://youtu.be/o6fJ_5ogO0c)

## ***Heat Index expected to reach 109 degrees by Saturday; Cooling Centers open through Sunday***

**NEW YORK**—Mayor Bill de Blasio, Emergency Management Commissioner Deanne Criswell, Health Commissioner Dr. Oxiris Barbot and Department of Social Services Commissioner Steven Banks today updated New Yorkers on the extreme heat expected through the weekend. According to the National Weather Service, temperatures and heat indices will increase at the end of this week, reaching dangerously high levels by the weekend. Friday’s expected heat index is 98 degrees, Saturday’s expected heat index is 109 degrees, and Sunday’s expected heat index is 103 degrees. A Flash Flood Watch is also in effect from 2 PM Wednesday to 4 AM Thursday, due to heavy rain expected on Wednesday.

Due to the heat:

- NYC Emergency Management has activated its Emergency Heat Plan.

- Approximately [500 Cooling Centers](#) have been activated around the city. To find a cooling center, including accessible facilities, New Yorkers should call 311 or visit the NYC Cooling Center Finder at [www.nyc.gov/beattheheat](http://www.nyc.gov/beattheheat).
- From Friday through Sunday, pools will be open an extra hour: from 11 a.m. to 8 p.m.
- **DSS has issued a Code Red.** During a Code Red, outreach teams redouble their efforts citywide, with a focus on vulnerable unsheltered New Yorkers and shelter is available system-wide to accommodate homeless New Yorkers who are brought to shelter by outreach teams or who walk in seeking respite from heat.
- In order to conserve energy during periods of high demand, New Yorkers should reduce personal energy usage by set air conditioners on low or to 78 degrees, turn off air conditioners when not home and close their doors.
- To help keep New Yorkers hydrated, the Department of Environmental Protection will have Water-on-the-Go portable drinking water fountains positioned at busy pedestrian areas across the five boroughs from Friday to Sunday.

“Extreme heat is dangerous, period,” said **Mayor de Blasio**. “I urge all New Yorkers to exercise caution this weekend as temperatures near 100. Look out for your neighbors, friends and family and call 311 to find a cooling center. We are deploying all resources at our disposal to ensure New Yorkers remain safe and cool during extreme heat.”

“Extreme heat is an underestimated and deadly hazard. The best way to beat the heat is to use an air-conditioner or to visit one of the City’s Cooling Centers,” **NYC Emergency Management Commissioner Deanne Criswell** said. “NYC Emergency Management will continue to work closely with the National Weather Service to monitor weather conditions throughout the period of extreme heat.”

“Hot weather is dangerous and can kill. People with chronic physical and mental health conditions should use air conditioning if they have it, and get to a cool, air conditioned place if they don’t,” said **Health Commissioner Dr. Oxiris Barbot**. “During times like these, we all need to look out for each other. Be a buddy and check on your family, friends, and neighbors who are at risk and help them get to a Cooling Center or another cool place – even if for a few hours.”

“24/7/365, our outreach teams are engaging New Yorkers in need, offering them services, shelter, and a helping hand,” said **NYC Department of Social Services Commissioner Steven Banks**. “During extreme weather, we redouble our efforts citywide to assist our most vulnerable neighbors

and ensure they can access crucial resources, like cooling centers, cold water, and other essentials, as we continue to encourage each individual to ultimately accept services and move off the streets and subways to safer settings indoors.”

In New York City, most heat-related deaths occur after exposure to heat in homes without air conditioners. Air conditioning is the best way to stay safe and healthy when it is hot outside, but some people at risk of heat illness do not have or do not turn on an air conditioner. New Yorkers most at risk are those with chronic medical, mental health, cognitive or developmental conditions, take certain medicines that can affect body temperature, have limited mobility or are unable to leave their homes, are obese, or misuse alcohol or drugs.

#### **HEALTH AND SAFETY TIPS FOR PROTECTION AGAINST THE HEAT:**

- **Go to an air-conditioned location, even if for a few hours.**
- Stay out of the sun and avoid extreme temperature changes.
- Drink water
- Wear lightweight, light-colored clothing when inside without air conditioning or outside.
- Protect your pets and service animals when extreme heat strikes:
  - Never leave pets in the car. Temperatures rise quickly even with the windows down and can be deadly for your pet. Call 911 if you see a pet or child in a hot car.
  - Be sure your pets have access to plenty of water, especially when it is hot.
- Participate in activities that will keep you cool, such as going to the movies, shopping at a mall, or swimming at a pool or beach.
- Make sure doors and windows have tight-fitting screens and, in apartments where children live, window guards.
- Never leave your children or pets in the vehicle, even for a few minutes.
- Check on your neighbors during a heat wave, especially if they are seniors, young children, and people with disabilities.

#### **KNOW THE WARNING SIGNS OF HEAT ILLNESS:**

Call 911 immediately if you or someone you know has:

- Trouble breathing.

**Justice in Every Borough.**

- Hot dry skin
- Rapid heartbeat.
- Confusion, disorientation, or dizziness.
- Nausea and vomiting.

If you or someone you know feels weak or faint, go to a cool place and drink water. If there is no improvement, call a doctor or 911.

### **ENHANCED HOMELESSNESS OUTREACH EFFORTS DURING EXTREME WEATHER:**

DSS outreach teams are redoubling their efforts citywide, with a focus on vulnerable unsheltered New Yorkers and shelter is available system-wide to accommodate homeless New Yorkers who are brought to shelter by outreach teams or who walk in seeking respite from heat. During heat emergencies, experienced outreach teams work to connect homeless New Yorkers with the following resources:

- **Shelters:** During a Code Red, shelter is available system-wide to accommodate anyone who is reasonably believed to be homeless and is brought to a shelter by outreach teams. Accommodations are also available for walk-ins.
- **Safe havens and stabilization beds:** Chronically homeless individuals may be transported directly to these low-barrier housing programs.
- **Drop-in Centers:** During a Heat Emergency, DSS/DHS conducts additional outreach to unsheltered New Yorkers and DSS/DHS drop-in centers with a cool space will be open to serve as many clients as possible. Homeless individuals experiencing heat-related discomfort are also able to access the designated cooling area at any shelter.
- **Street homeless outreach:** Teams will contact vulnerable individuals on their Code Red Priority Lists:
  - At least once during the Code Red Level 1 (when the forecasted heat index reaches 100 degrees Fahrenheit or higher for one day or more or heat indices are forecasted to reach 95 degrees Fahrenheit or higher at any point for two consecutive days or more) beginning at 12:00 pm.
  - No less than twice during Code Red Level 2 (occurs when the forecasted heat index reaches 105 degrees or more Fahrenheit for any duration or heat indices are forecasted to reach 95 degrees Fahrenheit for four days or more) to encourage them to accept services, including transportation to shelter placement.

- DSS coordinates borough-level Code Red efforts directly with partner City agencies, including but not limited to NYPD, DSNY, and the Parks Department.

#### **FIRE HYDRANT USE:**

The improper opening of fire hydrants wastes 1,000 gallons of water per minute, causes flooding on city streets, and lowers water pressure to dangerous levels, which hamper the ability of the Fire Department to fight fire safely and quickly. Properly used “spray caps” reduce hydrant output to a safe 25 gallons per minute while still providing relief from the heat. To obtain a spray cap, an adult 18 years or older with proper identification can go to his or her local firehouse and request one.

#### **ENERGY-SAVING TIPS:**

In order to conserve energy during the heat wave, New Yorkers should set their air conditioners to 78°F or “low.”

- Run appliances such as ovens, washing machines, dryers and dishwashers in the early morning or late at night when it is cooler outside to reduce heat and moisture in your home.
- Close doors to keep cool air in and hot air out when the air conditioner is running.
- Keep shades, blinds, and curtains closed. About 40 percent of unwanted heat comes through windows.
- Turn off air conditioners, lights, and other appliances when not at home, and use a timer or smart technology to turn on your air conditioner about a half-hour before arriving home. Keep air conditioner filters clean.
- If you run a business, keep your door closed while the air conditioner is running.
- Tell your utility provider if you or someone you know depends on medical equipment that requires electricity.

"Extreme heat can be deadly for those with underlying medical conditions and it makes the dangerous work of Firefighters and EMS members even more difficult," **said Fire Commissioner Daniel A. Nigro**. "I urge New Yorkers to take precautions during this heat wave, use 911 only if it is an emergency, check on your neighbors, and use a sprinkler cap when opening a hydrant to ensure water pressure remains strong when needed for fighting fires."

“The health and safety of NYCHA residents is paramount. We are prepared to respond to any service interruptions that our developments may face during the extreme heat,” said **NYCHA General Manager Vito Mustaciuolo**. “We continue to ask residents to report any issues by either using the MyNYCHA app or calling the Customer Contact Center at 718-707-7771, so we can respond as soon as possible.”

“Extreme heat can be deadly. In this City, we look out for our neighbors, which is why we encourage all New Yorkers to check on older adults who are at increased risk during heat emergencies,” said **New York City Department for the Aging Commissioner Lorraine Cortés-Vázquez**. “Senior centers that operate as cooling centers are open to all ages and can save lives when temperatures are extremely high.”

“New York City has the best tasting tap water around and our portable Water-on-the-Go drinking water fountains will be available across the five boroughs this weekend to help keep people cool,” said **DEP Commissioner Vincent Sapienza**. “We encourage New Yorkers to help conserve our critical water supply and not open fire hydrants illegally, as this can lower water pressure and make fire fighting more difficult.”

“We want New Yorkers and visitors to stay safe and cool during the high temperatures,” said **NYC Parks Commissioner Mitchell J. Silver**. “From tree shade and cooling centers to spray showers, pools and beaches, we encourage all to use our city resources to beat the heat in the coming days.”

“All New Yorkers and visitors—including those with disabilities—should take extra precaution in the coming days as the temperature is expected to rise,” said **Commissioner Victor Calise of the Mayor's Office for People with Disabilities**. “I encourage everyone to stay hydrated, use air conditioning or visit one of the many cooling centers around the city, and check on your neighbors to ensure that all of us stay safe and healthy.”

**[pressoffice@cityhall.nyc.gov](mailto:pressoffice@cityhall.nyc.gov)**



**BOARD OF CORRECTION**  
**CITY OF NEW YORK**  
1 CENTRE STREET, RM 2213  
NEW YORK, NY 10007  
212 669-7900 (Office)

**New York City Jail Conditions and Operations During Heat Emergency**  
**July 19-21, 2019**

On July 18, 2019, Mayor de Blasio declared a heat emergency for Friday, July 19 at 9 AM to Sunday, July 21, 2019 at 11:59 PM. Extreme heat can be dangerous for the health and safety of people in custody in New York City jails and the Correction Officers and other staff who work there. To monitor conditions and operations in the jails during the heat emergency, the Board of Correction (BOC), New York City's independent jail oversight agency, conducted unannounced tours of several jails on July 20 and July 21.

On Saturday, July 20, two BOC staff conducted unannounced tours of the Otis Bantum Correctional Center (OBCC) and the Anna M. Kross Center (AMKC) on Rikers Island. On Sunday, July 21, three Board staff conducted an unannounced tour of the Brooklyn Detention Center (BKDC). The tours included two non-air-conditioned housing areas at OBCC and BKDC and one non-air-conditioned housing area and one air-conditioned housing area at AMKC. BOC also toured the clinic in each of the three jails. BOC attempted to document the number of fans in each housing area and the number of ice deliveries to the people housed there, and to test whether the showers were running cold water. BOC spoke with people in custody as well as staff of the Department of Correction (DOC) and Correctional Health Services (CHS) throughout the three jails, and met with DOC facility leadership at the beginning and end of each BOC tour to note urgent concerns. Board staff sought out and spoke to two people at OBCC and two people at BKDC who were heat sensitive but were in non-air-conditioned housing.

**BOC Observations and Findings**

**► DOC Temperature Readings**

DOC's reports of sample temperature readings at OBCC found maximum temperatures of 91.6 Fahrenheit on July 19 (in a ESH unit<sup>1</sup> reported to have one heat-sensitive person in custody) and 90.5 Fahrenheit on July 20 (in an ESH unit reported to have two heat-sensitive people in custody). At AMKC, the high-temperature reading on Saturday was 82.5 Fahrenheit (in an air-conditioned

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<sup>1</sup> "ESH" is the acronym for Enhanced Supervision Housing, a form of restrictive housing which affords people with a minimum of seven (7) hours of daily lock-out as opposed to 14-hour daily lock-out afforded to people housed in General Population.

CAPS<sup>2</sup> unit, reported to have six heat-sensitive people in custody), and 82.3 Fahrenheit (in an air-conditioned PACE<sup>3</sup> unit reported to have five heat-sensitive people in custody). Per DOC's written policy, heat sensitive housing requires temperatures below 80 Fahrenheit, and DOC's cooling protections for everyone (ice, cold showers, etc.) are in effect at 80 Fahrenheit. At BKDC, DOC staff did not take temperature readings in housing areas during the heat emergency.<sup>4</sup>

The Board has requested the Department's Daily Temperature Monitoring Reports at all jails for July 19-21.

► **Heat-Sensitive People in Custody**

On July 19, DOC leadership reported to the Board that, in advance of the heat emergency, they had undertaken significant efforts to house as many heat-sensitive people as possible in air-conditioned housing units. These are people who medical staff have deemed particularly at risk for heat-related illness (e.g., older adults, people on particular medications, people with severe asthma). On July 21, at least 140 people who were deemed heat-sensitive by CHS were housed in non-air-conditioned housing areas.

BOC asked DOC to provide, for July 19, 20, and 21, the daily list it generates with CHS of heat-sensitive people in each DOC facility that are *not* housed in heat-sensitive housing. The purpose of this is to enable DOC to prioritize the transfer of these individuals to air-conditioned housing areas. DOC and CHS provided the lists for July 19 and 21, but due to technical difficulties, were unable to generate it for July 20. Additionally, BOC spoke with one man at BKDC who was heat-sensitive (as confirmed by the facility clinic), and housed in a non-air-conditioned unit, but was not on the July 21 list. In the three jails toured, BOC found that facility leadership did not have these lists for their facility and thus were not aware of heat-sensitive people housed in non-air-conditioned housing areas. Upon Board staff providing a list, facility leadership reviewed it to see if any of these people could be moved.

Even in units with air conditioning, the temperature was not always appropriate for heat-sensitive people in custody. Per DOC's July 20 temperature-reading report at AMKC, 13 of 42 sampled cells in air-conditioned mental health housing areas reported temperatures above 80 Fahrenheit. Additionally, three of seven dayrooms in these areas reported temperatures above 80 Fahrenheit. People in cells in an air-conditioned mental health housing area at AMKC reported hot temperatures inside their cells (although Board staff found the corridor outside their cells was cool).

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<sup>2</sup> Clinical Alternative to Punitive Segregation housing serves people diagnosed with serious mental illness who have violated jail rules and otherwise would have been punished with placement in punitive segregation.

<sup>3</sup> Program to Accelerate Clinical Effectiveness housing is for people with serious mental illness who have not infringed and have different behavioral health needs.

<sup>4</sup> The Board did not tour the Rose M. Singer Center (RMSC), the women's jail, during the heat emergency; however, staff reviewed DOC temperature readings from July 20 and 21. The maximum temperature on July 20 was 84.6 Fahrenheit (in a General Population unit reported to house zero heat-sensitive people). The maximum temperature on July 21 was 92.5 F Fahrenheit (also in a General Population unit reported to house zero heat-sensitive individuals).

► **Enhanced Supervision Housing (ESH)**

Board staff toured one ESH Level 1 unit where people are generally locked in their cell for 17 hours each day.<sup>5</sup> The unit did not have air conditioning. Correction Officers distributed ice three times before BOC’s 2:30 PM tour on July 20, but staff and people in custody reported that the ice quickly ran out and they had to wait for more ice to be delivered. Additionally, men locked in cells in ESH were not allowed out for cooling showers. The Officers also appeared physically uncomfortable as they performed their work under the hot conditions. On July 20, a CHS physician’s assistant made a round during the afternoon count at 2:30 PM.

► **Showers, Ice, Fans, and Summer Clothing**

Showers tested in multiple areas at OBCC and BKDC ran warm to hot water. People in custody at AMKC reported that the showers in their housing area ran cool water.

All housing areas toured had at least two functioning fans. Fans do not circulate air in cells with solid doors at OBCC and AMKC. Board staff observed one man napping with his mattress on the cell floor (presumably because it was cooler there). At BKDC, housing areas toured had two fans in each dayroom, and generally only one fan per housing tier. The single fan at the end of the tier did not circulate air adequately.

Four of five units without air conditioning did not have ice on the unit during BOC’s tours. Two of the four units without ice noted regular ice deliveries in the logbook. The two other logbooks did not note ice deliveries. At all three facilities, cold water bottles and/or ice were distributed to staff on posts facility-wide.

Board staff observed that most people in custody were wearing undershirts or were shirtless. People wore uniform shorts, pants, or pants that had been cut or torn into shorts. Correction Officers and facility leadership told Board staff they were not issuing infractions for uniform-related rule violations.

► **Recommendations**

The Board will recommend further heat-mitigation efforts in advance of future heat emergencies this summer, including the potential hot weather this weekend. While there is room for DOC and CHS to plan for and improve their responses to the next heat emergency, the ultimate problem is inadequate infrastructure: there are not enough air-conditioned housing areas for the number of people currently detained. Jail areas without air conditioning are too hot and the mitigating responses are too limited, despite concerted efforts by DOC leadership, Correction Officers, and other staff. People should not be detained or required to work under these conditions.

The Board urges the City to consider capital spending to expand air conditioning in the jails now. Finally, the Board strongly supports the City’s efforts to decrease the jail population and recommends the City intensify these efforts, as this weekend’s heat emergency makes clear the lack of capacity to humanely house the current population and provide appropriate work conditions to City employees.

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<sup>5</sup> ESH is comprised of three levels each less restrictive than the other. In Levels 1 and 2, people are locked in their cells for 17 hours each day. In Level 3, people are locked in their cells for 14 hours per day. In general population, people are locked in their cells for 10 hours per day.

The Board of Correction thanks DOC and CHS staff in the jails for their commitment and professionalism during this weekend's heat emergency. The Board appreciates that DOC leadership was responsive to the Board's findings and concerns in advance of and throughout the weekend. The Board also thanks our monitoring staff for their continued vigilance monitoring conditions in the jails on behalf of people in custody and those who work in the jails.

July 26, 2019

Elizabeth Glazer  
Mayor's Office of Criminal Justice  
1 Centre Street  
New York, NY 10007

Commissioner Cynthia Brann  
Department of Correction  
75-20 Astoria Blvd  
East Elmhurst, NY 11370

Dear Ms. Glazer and Commissioner Brann:

Sunday will begin another heat streak, with forecasts of three straight days of temperatures over 90 degrees and even higher "real feel" temperatures. Given our clients' reports we have sent you from last weekend's heat, the Board of Correction's findings, and the lack of communication from you about sufficient remedial measures since then, we have little confidence that incarcerated people will be kept at safe temperatures during these high heat days.

Thus, could you please identify to us immediately:

- 1/ Your cooling plan for cell-bound people in non-air-conditioned units, while they are locked *in* their cells;
- 2/ How many people whom CHS has identified as heat sensitive are still *not* in air-conditioned housing, and whether *all* who are not air-conditioned have refused heat sensitive housing. We know that DOC moved at least 60 of The Legal Aid Society's older incarcerated clients to new housing areas around Tuesday, but do not know if those were to air-conditioned housing areas.
- 3/ At what temperature you will deem a cell and a congregate living area, respectively, uninhabitable;
- 4/ If the Department is relying in part on fans for cooling, how you will ascertain whether all such fans *are out of their boxes, plugged into working outlets, and actually working to circulate air*. It pains us to pose the questions in italics, as we think they are implicit in the question "are there fans." But since the Department's assurances to us that each housing area "had two fans" turned out to include housing areas at the Brooklyn Detention Center where fans were present but *not plugged in* because there are insufficient outlets, we are forced to clarify.

How has Brooklyn Detention Center resolved the problem of too few electrical outlets? And if it has not, what cooling alternative is taking the place of the inoperable fans?

5/ If the Department is relying upon the availability of cold showers for cooling, what have you done to remedy the widespread absence of cold water from many Department showers, as people reported last weekend? As you know, cold showers are required pursuant to Board of Correction Minimum Standard 1-04(b).

6/ In areas nominally air-conditioned, have all air-conditioners been found to be working properly (i.e., cooling the area to below 80 degrees)? We have received many complaints of the air-conditioners not functioning.

We reiterate our request that the City move all individuals confined to their cells to air-conditioned areas. When people are not in air-conditioned areas, the City must provide free and continual access to cold showers and ice to all persons, including during lock-in times.

Lastly, please provide us twice each day during this next heat wave with temperature readings from the actual living areas of the jails, including the interiors of cells.

Very truly yours,

/s/

Mary Lynne Werlwas  
Director

cc: Heidi Grossman, General Counsel  
Brenda Cooke, Chief of Staff  
Zachary Carter, Corporation Counsel  
Thomas Giovanni, Office of the Corporation Counsel  
Charles Orsland, Office of the Corporation Counsel  
Jacqueline Sherman, Board of Correction



July 30, 2019

**BY EMAIL**

Mary Lynne Werlwas  
Director  
Prisoners' Rights Project  
The Legal Aid Society  
199 Water Street  
New York, NY 10038

Dear Ms. Werlwas:

The Department is in receipt of your letter dated July 26, 2019. Below please find responses to your individual concerns.

1. Your cooling plan for cell-bound people in non-air-conditioned units, while they are locked in their cells.

Response: Every incarcerated individual who is locked in a cell has access to running water at all times. Ameliorative measures are available between 5:00 a.m. and 9:00 p.m., including cool showers, a regular supply of cambros of ice and cold water, and a cup of ice that is provided at meals. While locked in their cells, individuals in ESH also are provided with ice and cold water upon request.

In addition, the following Extreme Heat Protocol applies to all incarcerated individuals, whether they are locked in cells or not, when outside temperatures exceed 85 degrees and internal temperatures exceed 80 degrees:

- The Department maintains regular contact with Correctional Health Services (CHS), the healthcare provider for the city's jails, to monitor individuals who express heat-related concerns or have been determined to need a higher level of attention or care. Individuals are designated as "heat sensitive" by CHS; any treatment and assessment is provided by CHS through Health & Hospitals Corporation (H+H), and DOC Health Affairs confers with CHS to determine if additional medical monitoring is needed.
- CHS clinics are open 24/7 to evaluate patients who are experiencing heat related symptoms or wish to clarify their heat sensitive status.

- The Department encourages cool showers and plenty of fluids. Individuals have access to cool showers, and ice is provided in each housing area that is not air conditioned. The Department ensures that ice is regularly distributed to housing units. Each housing area that is not air conditioned has fans.
- Any individual experiencing difficulties or who requests to be seen by medical staff, regardless of whether or not they are in a non air conditioned or air conditioned housing area, is referred to CHS.
- In case of brownout or blackout conditions, each DOC facility has back-up generators to provide temporary electrical service.
- The Department has made considerable efforts to ensure that anyone who wants summer clothes has them. The Department has distributed thousands of shorts and short sleeve shirts since the beginning of June to help those in Department custody stay comfortable during the hot weather.

Finally, as noted in the Law Department's July 24, 2019 letter to Judge Preska, the Department conducted an emergency review of the ESH Level 3 population to determine if some of the individuals, who were scheduled for periodic review of their status the following week, could be released early. As a result, five individuals were released from ESH housing on Friday, July 19, 2019. Because of continued forecast high temperatures, the Department conducted a second emergency review of the ESH Level 3 population, and as a result, three additional individuals were released from ESH housing on Monday, July 29, 2019.

2. How many people whom CHS has identified as heat sensitive are still *not* in air-conditioned housing, and whether *all* who are not air-conditioned have refused heat-sensitive housing. We know that DOC moved at least 60 of The Legal Aid's Society's older incarcerated clients to new housing areas around Tuesday, but do not know if those were to air-conditioned housing areas.

Response: As of 11:00 a.m. Tuesday morning, July 30, 2019, there were 505 heat sensitive individuals not housed in AC housing. This total includes 163 who have refused to move to air conditioned housing, and 192 with authorized security overrides. Those individuals with security overrides have access to daily rounds and monitoring by CHS, as well as all heat protocol ameliorative measures, including access to cool showers, fans, and water and ice. The Department is continuing to work to rehouse the remaining 150 individuals with heat sensitivity who are not housed in air-conditioned housing to the best of our ability. We are not able to provide the housing area placements for the 60 individuals referenced above without being given their names.

3. At what temperature you will deem a cell and a congregate living area, respectively, uninhabitable;

Response: Although there is no specific high temperature at which the Department deems a cell and a congregate living area uninhabitable, the Department is sensitive to high heat conditions and has for many years implemented its Extreme Heat Protocol when outside

temperatures exceed 85 degrees and inside temperatures exceed 80 degrees. This protocol, set out in more detail above, took elements from Judge Baer's December 22, 2004 Order, which include increased monitoring by medical staff, cool showers, provision of extra water and ice, and encouraging individuals to drink plenty of fluids.

The Department does not designate a high temperature at which it deems a cell and a congregate living area uninhabitable.

4. If the Department is relying in part on fans for cooling, how you will ascertain whether all such fans *are out of their boxes, plugged into working outlets, and actually working to circulate air*. It pains us to pose the questions in italics, as we think they are implicit in the question "are there fans." But since the Department's assurance to us that each housing area "had two fans" turned out to include housing areas at the Brooklyn Detention Center where fans were present but *not plugged in* because there are insufficient outlets, we are forced to clarify. How has Brooklyn Detention Center resolved the problem of too few electrical outlets? And if it has not, what cooling alternative is taking the place of inoperable fans?

Response: The Department has been and is in compliance with its stated policy that all non-air conditioned housing areas shall be provided with two operable fans during the heat season. At BKDC, many housing areas have additional fans in dayrooms. The fans that were observed to be in boxes and/or not plugged in in BKDC "because there are insufficient outlets" were not fans included in the count of two operable fans per non-air conditioned housing area. The Department had distributed extra fans to many housing areas in anticipation of the high temperatures. Some of the housing areas did not have sufficient electrical outlets to operate these additional fans. The Department is taking steps necessary to run these additional fans above and beyond two fans per housing area, which may include installing additional electrical outlets where feasible.

5. If the Department is relying upon the availability of cold showers for cooling, what have you done to remedy the widespread absence of cold water from many Department showers, as people reported last weekend? As you know, cold showers are required pursuant to Board of Correction Minimum Standard 1-04(b).

Response: The Department's policy is to provide access to cool showers to incarcerated individuals during warm weather. This standard was set forth by Judge Baer in his Order dated December 22, 2004. The Department has made improvements in addressing the temperature of the hot water mixing with the cold water in the showers. Shower temperature measurements in ESH on Sunday, July 28, 2019 ranged from 72.1 to 78.4 degrees.

6. In areas nominally air-conditioned, have all air-conditioners been found to be working properly (i.e., cooling the area to below 80 degrees)? We have received many complaints of the air-conditioners not functioning.

Response: For the past three weeks, the Department has had three repair teams and one team of contractors on site working seven days a week to respond to reports of

malfunctioning air conditioning units and to make repairs where necessary. The Department has repaired many air conditioning units since high temperatures began.

If you have any further questions, please call.

Sincerely,

A handwritten signature in blue ink that reads "Heidi Grossman". The signature is written in a cursive style with a long horizontal flourish at the end.

Heidi Grossman  
General Counsel

Blaine (Fin) V. Fogg  
*President*

Janet E. Sabel  
*Attorney-in-Chief*  
*Chief Executive Officer*

Justine M. Luongo  
*Attorney-in-Charge*  
*Criminal Practice*

Mary Lynne Werlwas  
*Project Director*  
*Prisoners' Rights Project*

August 8, 2019

*Via email*

Cynthia Brann, Commissioner  
NYC Department of Correction  
75-20 Astoria Boulevard  
Jackson Heights, NY 11370

Oxiris Barbot, M.D., Commissioner  
NYC Department of Health & Mental Hygiene  
125 Worth Street  
New York, New York 10013

Elizabeth Glazer, Director  
Mayor's Office of Criminal Justice  
1 Centre Street, Room 1012  
New York, New York 10007

Dear Commissioners Brann, Barbot and Director Glazer:

Thank you for the Department of Correction's July 30, 2019 letter about the Department's measures to safeguard people in its custody from excessive temperatures and heat-related illness. However, the Department's reply left unanswered critical questions about health and safety, and especially why so many heat-sensitive people were not housed in cooled housing.

**Failure to Follow Medical Protocol for Heat-Sensitive People**

The Department of Correction stated that as of July 30:

[T]here were 505 heat sensitive individuals not housed in AC housing. This total includes 163 who have refused to move to air conditioned housing, and 192 with authorized security overrides. ... The Department is continuing to work to rehouse the remaining 150 individuals with heat sensitivity who are not housed in air-conditioned housing to the best of our ability. (emphasis supplied)

It is staggering that at least 342 people whose medical condition require cooled housing were not so housed --many for no reason, many for so-called "security overrides." These figures reflect the census even *after* the Department moved hundreds of people to heat-sensitive housing several days into the mid-July heat emergency. This is a failure to protect people in the Department's care.

For those whom the Department alleges are not being moved into air-conditioned housing because of “security reasons” the Department must explain why it does not or cannot provide secure cooled housing to those individuals.

The 150 people not in heat-sensitive housing for no reason at all must be moved to heat-sensitive housing immediately, if they have not already been. Once they are safe, the supervisors who failed to ensure their care should be held accountable.

If the Department claims that it cannot house all heat-sensitive people in air conditioning, the Department must explain why it cannot do so.

### **Lack of Protection for People Locked In Isolated Cells**

The danger of the Department’s policy of confining some individuals to isolated non-air-conditioned cells for most of the day, even when that cell is dangerously hot, is not mitigated by the ameliorative measures you describe. How can you say the Department “*encourages* cool showers” when it does not *allow them* during the lock-in periods where the risk is highest? Nor do fans provide relief to those locked in their cells behind solid steel doors, such as in the Enhanced Supervision Housing unit at OBCC.

Therefore, we repeat the demand that all individuals locked in isolated cells, especially in the ESH, be moved to air-conditioned housing immediately.

If the New York City Department of Health takes the position that the ability to ask for ice or water – which staff may or may not choose to bring – alone protects against heat illness at *any* temperature, please provide the medical support for that position.

### **Lack of Cold Shower Water**

As the Department knows, according to the New York City Department of Health and Mental Hygiene, as well as the U.S. Centers for Disease Control and Prevention (CDC), in the absence of air-conditioning, cool showers are the best means to prevent heat related illness and death. See: <https://www1.nyc.gov/site/doh/health/emergency-preparedness/emergencies-extreme-weather-heat.page> (“Take a cool shower . . . In extreme heat, a fan alone may not provide enough cooling. If you use a fan, use it only when the air conditioner is on or when the windows are open.) and <https://www.cdc.gov/disasters/extremeheat/heattips.html> (“Keep in mind: Electric fans may provide comfort, but when the temperature is in the high 90s, they will not prevent heat-related illness. Taking a cool shower or bath or moving to an air-conditioned place is a much better way to cool off.”)

Several incarcerated persons in multiple jails complained that showers provide only hot water, but no cold water as required by the Board of Correction Minimum Standards. The response of July 30 stated merely that the Department has made “improvements” and provided a temperature reading for the Enhanced Supervision Housing (ESH) unit at the OBCC jail, but gave no assurances that the problems elsewhere had been identified and fixed.

Please provide the Department’s investigative findings about the lack of cold water to housing area showers and, please state the specific steps, if any, the Department has made or will take to provide cold water to its housing area showers.

**Broken / Non-working Air Conditioners / Temperature Measurements**

Air conditioners that do not cool a housing area below 80 degrees F. do not provide sufficient relief from excessive heat. Although the Department says that it is fixing broken air-conditioning, how is the Department monitoring to find out which air conditioners do not lower temperatures in housing areas below 80 degrees F.? If the Department has taken temperature readings, please provide them. We also ask you to provide the results of any surveys of air conditioning to determine which units are functioning.

**Unopenable Windows / Ventilation**

We reported that general population celled housing in OBCC 5 South did not have cell window cranks to allow occupants to open and close windows without staff assistance, but received no substantive response. As you know, the Court’s 2001 order in Benjamin requires that windows be operational. Please respond to this issue and advise our office of the actions, if any, that the Department of Correction has or will take to ensure that all windows in occupied cells are openable.

Thank you for your prompt attention to our inquires. We look forward to a more informative reply from the City.

Sincerely yours,

/s/

MARY LYNNE WERLWAS  
VERONICA VELA  
DALE A. WILKER  
ROBERT QUACKENBUSH

cc: Heidi Grossman, Esq, General Counsel, DOC  
Brenda Cooke, Chief of Staff, DOC  
Zachary Carter, Corporation Counsel  
Thomas Giovanni, Office of the Corporation Counsel  
Charles Orsland, Office of the Corporation Counsel  
Jacqueline Sherman, Board of Correction



NEW YORK CITY DEPARTMENT OF CORRECTION

Cynthia Brann, Commissioner

Heidi Grossman, Deputy Commissioner

Office of the General Counsel/Legal Division

75-20 Astoria Boulevard – Suite 305

East Elmhurst, NY 11370

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August 21, 2019

**BY EMAIL**

Mary Lynne Werlwas  
Director  
Prisoners' Rights Project  
The Legal Aid Society  
199 Water Street  
New York, NY 10038

Dear Ms. Werlwas:

We are in receipt of your letter dated August 8, 2019 and want to thank you for your continued engagement. We appreciate the purpose of your letter is to ensure the Department is meeting its obligations during the heat season and want you to know that the Department takes seriously its responsibility to provide the necessary care for incarcerated individuals in our custody especially during the heat season. Rather than respond point by point to each assertion or the characterizations in your letter that the Department has failed to meet its obligations, which the Department disputes, we believe it most productive to respond, as we have done before, with the continuing efforts the Department has undertaken to address the heat conditions in the City jails when the temperatures exceed 85 degrees.

We refer you to our previous response dated July 30, 2019 and provide the following in response to your concerns.

The Department does not agree with your assertion that the Department has failed to follow medical protocol for heat-sensitive people. As we noted in our previous response, any individual designated as heat-sensitive not placed in air-conditioned housing has access to additional medical rounding, as well as all Departmental ameliorative measures, including access to cool showers, ice, and fans. With respect to your concern about individuals who must be confined to their cells for certain hours of the day due to security concerns, the Department is required by law to balance health and safety considerations with those security concerns.

Those individuals with security overrides typically present significant security concerns based on prior institutional behavior, including perpetration of a stabbing, slashing, or assault on a Correction Officer, and thus require very careful monitoring, as well as restrictions on their movement. As a result, we must use our best judgement in the manner in which these individuals are housed, including during high heat periods. Because of the ameliorative measures we have put in place to respond to heat conditions, we believe the current housing practices are reasonable and prudent, and have struck the proper balance between health concerns and security

concerns. We will continue to be attentive to the heat conditions and will accordingly carefully monitor the individuals in our custody.

As of Monday, August 19, 2019, there were a total of 403 heat-sensitive individuals not housed in air conditioned housing. This total includes 143 with authorized security overrides and 246 who have refused heat-sensitive housing. We note that CHS has reported no heat-related medical emergencies during the past month. All heat-related protocols outlined in our July 30, 2019 letter continue to apply to all incarcerated individuals.

The Department recognizes the importance of providing cool showers to incarcerated individuals on high heat days. For security reasons, many of the showers have a “blended” water feature whereby the hot and cold water provided to the showers is blended prior to initiating water flow, so the shower water is provided with one push button and at one constant temperature. The Department does not adjust all showers to a cooler temperature, but ensures that at least one shower per housing area is at a cooler temperature. The Department is continuing to monitor shower temperatures, and expects to provide temperature readings under separate cover within ten business days.

With respect to air conditioners, as mentioned in our previous response, the Department has had three repair teams and a contractor working to address reports of non-working or poorly functioning air conditioning units promptly. The Department’s ability to receive complaints regarding air conditioning units through the 311 system has enabled the repair teams and contractor to respond in near-real time to any reported issues. In addition, temperatures are taken in air conditioned housing units every day. The Department anticipates being able to provide the temperature readings as requested under separate cover within ten business days.

Finally, you inform us in your letter that you reported that OBCC 5 South had missing window cranks. The Department has not been able to identify receipt of such a report. Please provide us with a copy of this report so we can properly assess the specific issue. Nonetheless, the Department recognizes the importance of operational windows and is assessing window cranks and handles in all facilities to ensure operable windows.

If you have any further questions, please call.

Sincerely,

A handwritten signature in cursive script that reads "Heidi Grossman".

Heidi Grossman  
General Counsel