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May 10, 2022

The New York City Board of Correction  
1 Centre Street  
Room 2213  
New York, N.Y. 10007  
Via email

I am Kelly Grace Price, the founder of Close Rosie's. I'll discuss today:

- I. **The latest BOC Death Report**
- II. **The (alleged) DOC Sick-Out; its Deadly Consequences and BOC Authority to Investigate Staffing Shortages:**
- III. **RMAS Reporting Requirements: what's going on?**

### **I. The latest BOC Death Report**

I wish to thank Board of Correction Director Amanda Masters and Board Members Cohen and Sherman for their stern questioning regarding the BOC's report on the deaths of George Pagan, Taz Youngblood and Herman Diaz: all three men who died while caged on Rikers this

year.<sup>1</sup> It's my understanding that the DOC was given a copy of this report a week ago as was stated by BOC Director Amanda Masters during today's May 10, 2022 meeting: it's hard to believe the DOC Commissioner hasn't had time to "digest it" yet. The report itself is less than twenty pages including CHS's addendum. This pattern of unpreparedness is an alarming distinction for a person of Commissioner Monina's reputation. I have heard his staff repeatedly promise data to the City Council and to the Board: if the Board doesn't have ways of independently accessing all of DOC's records, data and books it needs to invest in ways it can. I fought for the BOC's budget to be expanded this year. When this windfall comes please use it to find ways to remove the barbed wire from around DOC servers and information storage facilities!

### **CHS**

Patsy Yang's appended response to the report was tremendously helpful. CHS's contributions to the report published to the public just one day before this hearing, on May 9, 2022, helped to clarify the complete lack of control CHS really has in accessing its patients, particularly in life-threatening emergencies, in City Jails. Also, if the head of CHS can digest the report and turn around a thoughtful reply to be appended when circulated to the public I suggest Commissioner Molina find a way that he can mimic her professionalism.

Regarding the contents of the report: of particular shock value is the board's documentation of discrepancies in call log times placed by DOC to CHS for emergency assistance and the times CHS logged those calls as well as the discrepancies in response times.<sup>2</sup> It is a pity no one on the Board asked CHS and/or DOC to directly speak to these

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<sup>1</sup> BOARD OF CORRECTION CITY OF NEW YORK; "February & March 2022 Deaths in DOC Custody Report and Recommendations May 9, 2022;"

<https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/deaths-report-and-chs-response-202202-202203.pdf>

<sup>2</sup> "There are discrepancies between DOC and CHS on what time a medical emergency was called in (Pagan) and whether a medical emergency was called in at all (Diaz). If DOC's account is correct, it took over thirty minutes for a medical team to make their way to the unit to collect Mr. Pagan and no one responded to the unit to aid Mr. Diaz. In both instances, people in custody physically carried Mr. Pagan and Mr. Diaz closer to the clinic. Prompt emergency medical response is vital in preventing further tragedies. It can mean the difference between life and death." IBID page 7.

discrepancies during the hearing. Board member Sherman brought it up to DOC but did not pursue CHS or press DOC for further reasons for these errors.

I am particularly shocked that it seemed by some of the comments from new BOC member Ramos that some Board members haven't even read the report. I note that members Pitts and Ramos were appointed by Mayor Adams on April 19, 2022<sup>3</sup> a full three weeks ago and am saddened that they did not feel that reading their own Board's reports is not important to them.

## **II. The (alleged) DOC Sick-Out; its Deadly Consequences and BOC Authority to Investigate Staffing Shortages:**

Regarding the unprecedented number of 21 people who have perished on Rikers over the past year, here is how we got here: last year the previous DOC Commissioner, Cynthia Brann, disappeared. She was absent for over two months & there was a ton of infighting about who would replace her (she had crossed swords with the former BOC Chair too many times ref the DOC's efforts to decarcerate during Covid, displayed churlish lack of professionalism publically towards the Board and in particular the BOC Chair, and had to go). The chosen candidate to replace her was from the 'NYC Government Criminal Legal System Reform Advocacy industrial Apparatus.' Vincent Schiraldi's appointment to the helm of the DOC was meant to quell dissent in Mayor de Blasio's final months in office. De Blasio had plans: he intended to pull-off some lame duck PR stunts and he needed little-to-no pushback from the advocate community for his hat-trick to succeed. The plan, as it was explained to me, was to move everybody from Rosie's to Bedford and everybody from the Boat to Rosie's and declare a twofer closure victory for Bill and Chirlane. With the best intentions former Commissioner Vincent Schiraldi took the post and he immediately appointed another famous member of the advocacy community and formerly caged person (with no corrections employment experience) as his deputy Commissioner.

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<sup>3</sup> "On April 19, 2022, Mayor Eric Adams appointed [Jacqueline Pitts](#) and [Joseph Ramos](#) as a member of the New York City Board of Correction, following their nomination by the Presiding Justice of the Appellate Division, for the First Judicial Department and the Presiding Justice of the Appellate Division, for the Second Judicial Division. Ms. Pitts and Mr. Ramos will serve a six-year term that will expire on October 13, 2027." <https://www1.nyc.gov/site/boc/news/2022.page>

The naivety of Bill de Blasio to think COBA would take this maneuvering without retribution is now in retrospect, astoundingly hubristic and deadly. But no one expected COBA to bite back so hard. They weren't so happy about two advocates controlling the department. They went into overdrive and allegedly orchestrated a silent sick-out in protest. The silent sick-out slammed on the brakes to the number of people coming to work each day and suddenly over 1/3 of DOC staff had vanished: all chaos broke loose. They maintained the silent sick out for months- their numbers only began to return after Jan 1, 2022 when Molina and Adams took over (and as Councilmember Caban has pointed-out people returned from the holidays). We asked repeatedly for data about the numbers of DOC employees calling out sick and at every BOC meeting we would hear Commissioner Schiraldi eke out numbers for one day or so but the BOC had then, and still has the power now to investigate the sick-out and cull daily data regarding DOC employee attendance!. The BOC Charter says:

"c. The board, or by written designation of the board, any member of it, the executive director, or other employee, shall have the following powers and duties:

1. The inspection and visitation at any time of all institutions and facilities under the jurisdiction of the department;
2. The inspection of all books, records, documents, and papers of the department;
3. The preparation for submission to the mayor, the council, and the commissioner of proposals for capital planning and improvements; studies and reports concerned with the development of the department's correctional program planning; and studies and reports in regard to methods of promoting closer cooperation of custodial, probation, and parole agencies of government and the courts; and
4. The evaluation of departmental performance.

d. The board, annually and at such other times as it may determine, shall submit to the mayor, the council, and the commissioner reports, findings and recommendations in regard to the matters within its Jurisdiction."<sup>4</sup>

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<sup>4</sup> **New York Code - Laws: New York City Charter : (626) Board Of Correction;**  
[https://law.justia.com/codes/new-york/2006/new-york-city-charter/nyc0626\\_626.html](https://law.justia.com/codes/new-york/2006/new-york-city-charter/nyc0626_626.html)

But as the situation on Rikers spiraled out of control the BOC never investigated and published its own report, never held a hearing regarding DOC employee attendance. I hope this new BOC is able to find ways to investigate the alleged (continuing) sick-out and to identify bad actors at all levels involved in the alleged sick-out.

### **III. RMAS Reporting Requirements: what's going on?:** Concerns over RMAS

Implementation:

In June of 2021 I expressed concern to the Board over the lack of reporting matrix, considerations and specifics included in the RMAS rule as it was proposed to the public and as it eventually passed in its final version:<sup>5</sup>

“The oversight scheme as included in the rule on pages 112-114 of the RMAS rule is only representative of some of the changes the RMAS will bring. Of the ~230 new changes/mandates described in the rule only 26 are listed on the “Implementation Dates” section of the rule! We saw this same incomplete implementation table/timeline attached to the PREA rule in 2016: what assurances do we have that oversight and accountability are built into this new rule unlike the disaster that PREA implementation has brought? Nary any of the changes outlined for :

A. Proposed Amendments to Chapter 1 Standards: Amendments to § 1-02(c): Commingling of Young Adults with Adults

1. Rules (§ 1-02(c)(1)) & § 1-02(b)(3) through (4): what mechanism(s) do we have for oversight ref guaranteeing young adults 18-21 will be housed separately and apart from adults in the DOC's custody in these new RMAS units? Co-mingling is an issue I have testified and presented analysis to the Board to in the past.<sup>6 7</sup>

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<sup>5</sup> Testimony of Kelly Grace Price, Close Rosies; NYC Board of Correction; April 13, 2021; linked May 10, 2022; <https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Rulemaking/2021-Restrictive-Housing/april-23-2021-kgp-close-rosies-rmas-proposal-testimony.pdf>

<sup>6</sup> Testimony of Kelly Grace Price to the NYC Board of Correction December 2, 2019: <https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Rulemaking/2017-Restrictive-Housing/KGP-Restrictive-Housing-Rulemaking-Testimony-Dec-2-2019.pdf> and;

<sup>7</sup> Testimony of Kelly Grace Price to the NYC Board of Correction; January 12, 2021:

“The data posted in the monthly housing reports don't include data on YA's placed in Adult units: they only count people in units already labeled as YA units. If a young adult is placed in a unit labeled an Adult Unit that head is not included in the tally for "# YAs in Co-mingled Housing Areas." Only YA's in units labeled as YA units that have some adults in them are included in this reporting. This is nutz. Close Rosie's has identified as many as ten reports with data that conflicts with the July 2019 data and will continue my evaluation.”<sup>8</sup>

This seems like a glaring omission to have been left off from the Implementation/Oversight table added to the proposed rule on pages 112-114.6 Also omitted from the Implementation Timeline appended to the new rule on pages 112-114:

2. § 1-02(c)(2)). Age-Appropriate Programming: what oversight mechanisms are included in this rule to ensure young adults are not given coloring books in lieu of real educational programming in these units? We heard testimony from the DOC last week during a City Council hearing on educational services for youth in our city jails and detention centers that the DOC has been unable to provide tablets for learning to all youth on Rikers because of issues with Internet connectivity. What oversight do we have to assure age-appropriate programming is being offered in these new units?

3. Section 1-06 (Recreation) & Section 1-07 (Religion): while both of the changes in these sections are linguistic only there is nary even a glance in of a reporting/oversight mechanism guaranteeing people held in the new RMAS units will be guaranteed access to REC or to religious services.

4. Section 1-08 (Access to Courts and Legal Services)Section 1-08(f)(6)

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<https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2021/January/January-12-2021-Close-Rosies-BOC-Testimony.pdf> 5 Id.

<sup>8</sup> Testimony of Kelly Grace Price to the NYC Board of Correction December 2, 2019: <https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Rulemaking/2017-Restrictive-Housing/KGP-Restrictive-Housing-Rulemaking-Testimony-Dec-2-2019.pdf>

is amended to permit the Department to reduce or eliminate law library hours in RMAS Levels 1 and 2 provided that an alternative method of access to legal materials is instituted to permit effective legal research. What will this alternative method be and when will it be instituted?

5. Section 1-08(j)(1) is amended to eliminate language allowing a person to be excluded from law library following a disciplinary infraction, in keeping with the SCOC guidance provided in the recreation context specifying that essential services cannot be restricted as part of a disciplinary sanction: but what oversight do we have to ensure that law library access is provided to all persons housed in the new RMAS Units?

6. Section 1-09 (Visiting) The new rule allows in-person visits to be suspended for people in the RMAS unit but mentions nothing about virtual visiting. When will people in these units be able to visit their loved ones via video and how will this be monitored for continued compliance if it is not added to the implementation table?

7. Section 1-11 (Correspondence) the new rule mandates that the warden inform people in RMAS when their non-privileged correspondence(s) will be read: this is a big sea-change from the old policy that allowed the warden to deny people in ESH their mail and should be included on the Implementation Calendar.

B. Proposes Chapter 6 [sic] Rules: Implementation Timetable Omissions:

1. § 6-03(a)(1) and (2): this section defines exceptions to the term “restrictive housing” and makes allowances for congregant setting out of cell time exceptions for certain types of units defined by purpose and/or by architecture. We haven’t a mechanism for knowing how many of these new RMAS units fall into these exceptional categories/how many may fall into these categories because of operational changes. It would be optimal if the board included language here for an addition to the Monthly Housing Report that would be reflective of the status of each of the RMAS units that falls into these exceptional categories.

2. Pre-Hearing Detention (§ 6-04(f)):

“To monitor compliance with § 6-04, subdivisions (e) and (f) require: (i) the Department to produce semi-annual reports on DOC’s use of pre-hearing detention; and (ii) the Board and the Department jointly develop the reporting template, which shall be approved by the Board.”

The way this is written I am assuming that (e) = (i) and (f) = (ii). If this is the case where is the Implementation Timeline entry for the development of the reporting template that the Board and the Department will develop jointly (f)? Also please add into the language of the rule that advocates will participate in developing this reporting template.

3. Confinement for De-Escalation Purposes (§ 6-05):

a. the proposed rule § 6-05 (a) “permits the Department to confine people in custody for de-escalation purposes only when (1) a person’s behavior poses an immediate threat to the safety of the persons or others or significantly disrupts DOC activities in progress<sup>9</sup>

; (2) temporarily house a person in custody for the person’s own safety after the person has been assaulted or otherwise victimized by another person in custody<sup>10</sup>

; or (3) facilitate the decontamination of people in custody following exposure to chemical spray.”<sup>11</sup>

But we don’t have a reporting tool that allows the board or the public to view how many people are placed in the new RMAS unit(s) because of what reason. Also: I don’t ever remember any DOC rule or variance request that allowed restrictive housing placement “following exposure to chemical spray.”<sup>10</sup> Shouldn’t people be placed in medical units and not in the RMAS units and shouldn’t this be written into the language of the new rule? It feels like you are giving bad-intentioned corrections staff a free pass to throw people into this unit: all they have to do is spray someone to send them to this new sugar-free, calorie-free (and taste-free) solitary “lite” unit. To add

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<sup>9</sup> Proposed rule § 6-05(a)(1).

<sup>10</sup> Proposed rule § 6-05(a)(2).

<sup>11</sup> Proposed rule § 6-05(a)(3). 10 Id.



insult to injury the new rule doesn't allot for any reporting to control this malignant potential practice. Please add a reporting requirement here.

b. Proposed rule § 6-05(b) ensures immediate notification of the movements of persons caged in the RMAS units to CHS to guarantee continuity of care but the rule doesn't specify when these notifications must commence. It may be prudent to specify that these immediate notifications are to begin on the effective date of this rule and to require reporting on movements between units.

c. Proposed rule § 6-05(c): It's outrageous that observation of people in de-escalation confinement every 15 minutes isn't mandated right off the bat for this unit. The proposal allows DOC three months to bake this life-saving oversight into the recipe for this new unit. It feels like the DOC would be appreciative of the chance to form good habits early in the nascent days of this unit instead of waiting three months and for routines to formant without this practice ingrained synoptically into the daily work schedules of staff on these new units. What is the barrier to performing these 15-minute check-ins as soon as these new units are opened? Has anyone asked?

d. Proposed rules § 6-05(d) (e) (f): I don't see reporting requirements in Proposed rule § 6-21 or Proposed rule § 6-25 or in Proposed rule § 6-05(k) that outline any kind of reporting on the architectural features of cells used for RMAS confinement or in compliance with 40 RCNY Proposed rule § 1-03 and Proposed rule § 1-04 or that meals and snack quality and availability is on a equilibrium as meals served in general pop.

e. Proposed rule § 6-05(h),(i): It is not clear what exactly the proposed reporting requirements are for Proposed rule § 6-21(h) and Proposed rule § 6-05(i) are. I don't see the language provisions for these subdivisions of this section anywhere in the new rule.

f. Proposed rule § 6-05(j)(k): again these subsections of this part of the rule require the BOC and DOC to produce quarterly reports<sup>12</sup>

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<sup>12</sup> 11 Proposed rule § 6-05(j).

on the use of de-escalation confinement and for the BOC and DOC to collaborate on creating the reporting templates<sup>13</sup> but there is not an implementation timeline denotation for WHEN these templates will be completed by. It is also not clear if the quarterly reports that are only required to be posted eight months after the creation of the unit(s) will retroactively include data from the first eight months of the RMAS units' creation. If you don't specify that the first report includes this retroactive data we will never see it and neither will you (the BOC members and staff.)

g. Proposed rule § 6-21(f)(1) through (7). It is not clear what exactly the proposed reporting requirements are for Proposed rule § 6-21(f)(1) through (7) are. I don't see the language provisions for these subdivisions of this section anywhere in the new rule.

We have only one more BOC meeting before the July 1, 2022 RMAS implementation deadline: can we see some reporting templates? It is imperative that they include room for degrees of compliance to rules and subdivisions of rules as to the NYC DOI compliance reports that I have already onpassed to BOC Director Masters for review and to consider as templates for BOC rule compliance and reporting. The DOI categories are:

•**Implemented (I)**: DOC has accepted and implemented these recommendations completely

\***Partially Implemented (PI)**: DOC has accepted and implemented these recommendations in part and a % of Implementation must accompany this designation..

•**Accepted in Principle (AIP)**: DOC has agreed with the general intent of the rule and has begun the planning to execute but has not yet implemented them.

•**Under Consideration (UC)**: DOC has not yet decided how it plans to adopt the rule provision.

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<sup>13</sup> 11 Proposed rule § 6-05(k).

•**Rejected (R)**: DOC does not agree with the rule and will not implement them.

•**No Longer Applicable (NLA)**: Due to a change in rules, technology or procedure by DOC, these rule are no longer relevant.

I appreciate you taking the time to review my testimony, to internalize it carefully and consider its implications.

Best,

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[www.CloseRosies.org](http://www.CloseRosies.org)