



THE COUNCIL *of* THE CITY OF NEW YORK

January 9, 2023

Members of the New York City Board of Correction
New York City Board of Correction
2 Lafayette, Suite 1221
New York, NY 10007

SENT VIA EMAIL

Re: Department of Correction Continuing Variance Requests

Members of the Board:

We, as members of the City Council, oppose the Department of Correction (DOC) requests for continuing variances to Minimum Standard §§ 1-11(e)(1)(i) and 1-12(a). The proposed variances would drastically change the Department's mail system by requiring all mail to be sent to an off-site facility to be scanned then read on tablets by people in custody and requiring that any packages be sent directly from a limited list of vendors.

We urge all members of the Board to reject these requests, which will only further strip people in DOC custody of their rights and humanity and will not address the issues that DOC suggests it will.

People in DOC custody are already suffering the absence, or very limited delivery, of every basic service, including "clean laundry, haircuts, time outdoors" as noted in the most recent *Nunez* federal monitor's report. It is unconscionable for DOC to propose taking away something that is such a positive source of human connection. Imposing these additional restrictions on correspondence and packages will likely lead to more frustration and tension - which will only exacerbate existing issues at our city's jails. Requiring packages to come from only certain vendors will also place an additional financial burden on family members. Given DOC's current operations (including the lack of universally available tablets) and lessons from other jurisdictions that have adopted similar plans, we are concerned about the ways in which this proposal would limit or prevent incarcerated people from receiving correspondence, to which they have a right. Further, we are concerned about the fundamentally dehumanizing effects of such a system as well as the privacy and surveillance concerns that would come with it.

Aside from the harm this proposal would cause if implemented, this would not address the problem DOC suggests it would - the presence of drugs in the jails. A city Correction Department investigator testified in federal court on November 29, 2022 that drugs and other contraband found on Rikers Island "usually" come in through corrupt officers and staff. The Department of Investigation also stated in July 2022 that "mail and visits are not significant entry points for contraband." Despite this evidence, the City has not taken action to prevent staff from bringing in drugs. In a City Council hearing last month, Commissioner Molina admitted that DOC does not require its staff to pass through body scanners and there has not been any accountability in addressing this real issue.



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Instead of taking a crucial lifeline of connections away from people who are already not being afforded the minimum standards of treatment in NYC jails, DOC should implement better security measures to hold their own staff accountable, and ensure provision of medical care and treatment programs to help people in their custody manage chemical addictions.

Furthermore, the mail and package proposal has significant legal and surveillance implications. The scanning of mail into a platform under private control and the tracking of packages by commercial providers will drastically expand the breadth and intensity of surveillance on already hyper-surveilled communities of color. The mail and package proposal—coupled with the ongoing recording of phone calls—means that nearly every interaction a family member has with a loved one who is incarcerated will be tracked and recorded. Such data can be retained far into the future and be used against people even if they have never been charged with a crime, have been released from jail, or have had charges dismissed. These records will likely be shared with law enforcement, regardless of any stated policy. Such widespread surveillance raises serious First and Fourth Amendment concerns. Moreover, we have seen firsthand in New York City, as well as across the country, the egregiously problematic and irresponsible practices of private providers, such as the systematic recording of attorney-client phone calls in DOC facilities. These companies should not be tasked with handling such an important and sensitive aspect of communication between people in custody and the outside world.

We urge the Board to deny these variance requests, now and in the future.

Sincerely,

Crystal Hudson
New York City Council Member, District 35
Chair, Committee on Aging

Carlina Rivera
New York City Council Member, District 2
Chair, Committee on Criminal Justice

Christopher Marte
New York City Council Member, District 1

Erik Bottcher
New York City Council Member, District 3



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New York City Council Member, District 40

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New York City Council Member, District 49

cc: Amanda Masters, Executive Director, Board of Correction