



Testimony of

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We are Natalie Fiorenza and Rachel Sznajderman, Corrections Specialists at New York County Defender Services (NYCDS). NYCDS is an indigent defense office that every year represents tens of thousands of New Yorkers in Manhattan’s Criminal and Supreme Courts. The NYCDS Corrections Specialist Team provides a direct channel of communication with and advocacy for our clients who are incarcerated. This channel provides us with unique insight into the current state of affairs on Rikers Island, which continues to present a chilling reality for anyone forced to spend time there. Due to the many examples of chaos and danger playing out on the island right now, we are fearful of the direction in which Rikers is headed.

**I. Current State of Affairs on Rikers Island**

We want to emphasize that not only does Rikers Island continue to present a chilling reality for anyone forced to spend time there, as has always been the case, but to underscore that right now, this current moment leads me and many of my colleagues to be particularly fearful about the direction Rikers and the Department of Correction is heading. A few weeks ago while in conversation with a few other advocates, someone mentioned the tragic and avoidable death of Mr. Rubu Zhao and we all shared the sentiment of being especially concerned that something like this could happen in a PACE unit. Supposedly the kind of unit with the highest level of care, with the highest level of supervision. Another person shared Reuven Blau’s article about James Carlton which had been published earlier that day. The article detailed the life-altering injuries Mr. Carlton suffered as a result of a use of force that landed him on life support and eventually

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paralyzed from the neck down. This news was particularly disturbing because our office had received similar news about our client the weekend before. I shared that we recently learned that a client of ours was also on life support after going to the clinic for a headache. The amount of information provided to us from CHS and DOC was incredibly limited, and we were at a loss as to how Joshua Valles, a young man at the age of 31 could so quickly deteriorate. We were all certain there was more to the story and anxious and terrified for what we would learn in the coming days. Finally, another colleague shared a similarly harrowing story of a client who was, at the time, in the ICU brought within an inch of his life because DOC officers let him languish in an intake cell for hours after he had been beaten senselessly.

The group of us that were discussing sat in silence, all horrified that not only had we each individually learned of a tragic, avoidable, and life-threatening event happen to one of our clients, but that we had all experienced this collectively, that all of these events had happened in quick succession, within a matter of days. And if we as advocates and attorneys felt this, I cannot imagine how it must have felt to share a dorm with one of those clients. To be forced to watch as DOC allowed unchecked violence to unfold and be filled with the creeping sensation that you might be next.

And in the face of this violence, dysfunction, and loss of life, the Department's only response has been to limit the public's access to information of this nature. They have sent the message that the lives at stake do not matter and that what is most important is protecting the Department's image. The Monitor even cites in his most recent special report that the Department has both deflected in order to avoid providing information, and has been inaccurate in the information they do provide. My colleague Natalie will continue our joint testimony by touching on the many other instances of Department ineptitude that have gone ignored by this Board specifically in the last few months.

## **II. The Death of Our Client, Joshua Valles**

Our client, Mr. Valles, a 31-year-old New York City resident, died on Saturday, May 27th, 2023, after suffering a subdural hematoma and skull fracture while detained on Rikers Island. In the days following his death, the Department Commissioner Louis Molina attempted to hide the circumstances of Mr. Valles' death, which to this day remain a mystery to his family, our office, and the public at large. This fact, compounded by the outright false explanations initially reported by the Department, and the Department's recent announcement that it is not legally obligated to report on deaths sustained in its facilities, lead us to question the veracity of any Department-issued account of the events that led to Mr. Valles' tragic, untimely demise.

On June 5, 2023 we sent a letter to the Attorney General's Office and the US Attorney asking them to independently investigate the circumstances leading to Mr. Valles' death. A copy of the letter that we sent to them is attached to this testimony.

### **III. Fire in NIC**

On April 6, 2023, just three weeks after the last Board meeting, a fire ravaged through the North Infirmary Command injuring both detainees and DOC staff alike. There are many questions still left unanswered regarding how the fire was able to cause so much damage before it was eventually put out, questions to which the public, families, friends, and advocates of those injured in the fire deserve answers. It is for this reason that the public defender offices in this city joined together in asking the Board to not only publish an independent report on the fire, but also to add the fire to today's agenda. Considering that many people nearly died as a result of this fire, we are shocked and disappointed that the NIC fire is absent from today's agenda.

Those who were injured and otherwise traumatized by the fire deserve an investigation and clarity on this incomprehensible event. We hope to see the Board's attention to this matter in its ongoing investigation into Department affairs, and, ultimately, we expect to see a full reporting about the failures of management and the negligence that contributed to this terrifying event.

### **IV. Change in ESH Rules**

We are also disappointed that the newly published ESH directive is absent from today's agenda. Many details of the ESH directive go against years of precedent guiding the treatment of young adults accused of DOC policy violations.

DOC has now given themselves greater discretion to place children in what is effectively punitive segregation by another name. Individuals aged 18-21 will now be forced to sit with both of their ankles and one arm shackled to a desk chair while they participate in programming. In recent conversations with a client in ESH, we learned that during this programming, people are not permitted to go to the bathroom, as they must be shackled throughout the duration of their programs. Our client described being forced to spread each leg along the chair legs, with each ankle shackled and one arm handcuffed to the table, leaving only one hand free to write. He was locked in this uncomfortable position for hours on end, unable to stretch, stand, or use the bathroom, all while being asked to focus on education and other programming assignments. This punishment is tantamount to torture, and we fear the effect this will have not only on our young adult clients, but on anyone subjected to this treatment for even one day.

## **V. Importance of Public Feedback and Transparency to the Board of Correction's Core Mission**

Amidst this chaotic, nightmarish reality that continues to unfold and present new, horrifying details with each passing day, the Board has imposed new restrictions on testimony at its public meetings that directly contrast with the Board's purpose and mission.

As we have previously testified, Board of Correction meetings are essential to the work that we do at New York County Defender Services. First, they are our chief source of information about Department policies and data that informs our understanding of what is or is not permissible. They allow us to vicariously interrogate Department officials about recent notable events, ongoing patterns of abuse, and routine departures from minimum standards that we observe.

In addition, the Board Meetings provide a rare opportunity to shed light on the experiences of our clients. In restricting the number of speakers permitted to testify at these meetings, the Board thwarts the ability of those currently detained, the formerly incarcerated, family members, and advocates to engage in this vital transfer of information.

Without these two pillars of Board meetings - a targeted agenda and the robust opportunity for public comment - the Board's oversight value and ability to hold the Department of Correction accountable evaporates. In Rikers' current state of emergency, which continues to be extended week after week, it is inconceivable that this Board would propose any policy that would restrict its ability to oversee and manage the routine violations of its minimum standards.

## **VI. Asks**

We are therefore requesting the following:

1. A Board investigation into the April 6th NIC fire,
2. That the April 6th fire be placed on next month's agenda so that the Board will have the opportunity to question DOC and relevant parties about the event,
3. That the Board remove its limits on the number of speakers at Board meetings

If you have questions about this testimony, please email [correctionsspecialists@nycds.org](mailto:correctionsspecialists@nycds.org).