



Testimony of

Natalie Fiorenza  
Corrections Specialist  
New York County Defender Services

Before the New York City Board of Corrections

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My name is Natalie Fiorenza. I am a Corrections Specialist 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 incarcerated clients. When our clients relay concerns relating to their health or living conditions in the jails, we intervene and advocate on their behalf to address underlying issues and unmet needs. In 2022, our team intervened to advocate for our incarcerated clients on 1,305 occasions. Given the ongoing crisis within of our city's jails, it is paramount that we maintain this avenue of advocacy for those in city custody.

### **I. On the Proposed Reduction of Board Meetings Per Year**

Since the start of the new year, the Commissioner Molina's public comments have taken on a contemptuous tone. He has made derisive comments about the Board<sup>1</sup> and has implemented policies that appear specifically aimed at impeding the Board's oversight abilities. This all in the face of a declared state of emergency for NYC jails.<sup>2</sup> Now, of all times, is not the moment to pull back on the oversight of the Department of Corrections.

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<sup>1</sup> *Correction Department Moves to Further Restrict Information*, Graham Rayman, New York Daily News (January 30, 2023) <https://www.nydailynews.com/new-york/nyc-crime/ny-rikers-island-transparency-correction-department-20230130-m226aa2j6nrbntfvzd7ktavey-story.html>

<sup>2</sup> NYC.gov, Official Posting from the Office of the Mayor, March 11<sup>th</sup>, 2023 <https://www.nyc.gov/office-of-the-mayor/news/357-003/emergency-executive-order-357> (Outlining the extension of an existing Emergency Executive Order aimed at getting NYC's jails into compliance with Federal Mandates after the *Nunez* class action).

**New York County Defender Services**

100 William St, 20th Floor, New York, New York 10038 | t: 212.803.1500 | f: 212.571.6035 | [nycds.org](http://nycds.org)



The last board meeting was 9 weeks ago. In the same span of time between May and July of last year, 8 people died on Rikers.<sup>3</sup> This year, since the Board last convened, Commissioner Molina's actions – and inaction – have placed those in DOC custody in imminent danger to their health and safety and severely curtailed transparency within the jails. He has acted in defiance of the New York city charter by denying BOC's access to video footage, and has substantially complicated the sharing of data, directives, records, video, and more. In some cases, DOC refuses to share that data, all to hide the truth of what is happening to our fellow New Yorkers stuck in cages.<sup>4</sup>

As direct representatives of those detained in DOC custody, these Board meetings are our chief source of access to information about Department policies and data, and more importantly, are our primary opportunity to share our observations and recount those our clients. Reducing the frequency of Board meetings has direct consequences for the work that we do. We use the information learned each month to let our clients know their rights and changes in policies, and to advocate on their behalf when they are violated.

For example, if we learn at a Board meeting that shower cells should no longer be used to isolate our clients, we can use that information to advocate for our clients who are being illegally isolated in shower cells. If we are told that every person in every housing unit should have the option to go to rec every day, we are able to inform our clients of that right. When they tell us they are not receiving their allotted recreation time, we can be heard here, shedding light on the obfuscations of the Department. Limiting the number of meetings will limit our ability to hold DOC accountable. Crucially, it will limit our clients' ability to protect themselves, and to stay informed about changes in jail policies that affect their every movement.

Reducing the number of oversight meetings does not accomplish any tangible goal for the safe and humane treatment of people presently incarcerated by the city. Reducing the number of oversight meetings will only further silence people who are currently detained. It will give the Department more time to keep their violations out of public view. By the Department's own admission, our city jails remain in a state of emergency. Such an acute moment of crisis is not the time to relax oversight over this institution. It is time to hold the Department accountable for the death and the destruction of human lives it has presided over in recent years, and use this agency's sacrosanct oversight authority to uphold the minimum standards and the human rights of those detained in DOC facilities.

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<sup>3</sup> For reference and further reading, see *Tracking the Deaths in New York City's Jail System*, Jan Ransom and Jonah Bromwich, New York Times, <https://www.nytimes.com/article/rikers-deaths-jail.html>

<sup>4</sup> *Department of Correction and oversight board at odds*, Courtney Gross, NY1 Spectrum News, February 14th, 2023, <https://www.ny1.com/nyc/all-boroughs/public-safety/2023/02/15/department-of-correction-and-oversight-board-at-odds>



## **II. On the Proposed Variance Regarding Physical Mail**

Today, we are discussing two variances proposed by the Department of Correction. A variance from Board Minimum Standards § 1-11(e)(1)(i) would limit the receipt of physical mail, and a variance from Board Minimum Standards § 1-12(a) that would limit the sources of external packages. These variances strip a basic human right from those in custody: the right to remain connected with their loved ones and with the outside world. Our incarcerated clients look forward every week to a letter from their child, a box containing their favorite t-shirt, or sweet treat in a care package from their mother. It is paramount that the board does not lose sight of the truth that people currently incarcerated are not dissimilar from the people on the board or giving this testimony. They are human beings at the lowest points in their lives, who at this moment need support more than ever. To remove access to packages from home would eliminate that connection and put an undue burden on their families. Not all family members know how to shop online, or own a credit card. Such differences in lifestyle and resources must be considered when reviewing this proposed variance, which would prohibit the delivery of physical cards, drawings, and letters from loved ones, and require family members to mail from specific, online, third-party vendors.

In regards to the paper mail, the egregious privacy violations of Securus and the invaluable nature of physical mail were discussed at length at January's hearing. You have all received in depth, researched, written testimonies and letters from a host of organizations and concerned constituents on the matter. At this forum, we heard from a man who was formerly incarcerated showed you letters that he received from his son in 1997. Letters he has kept for 26 years.

The negative effects of this variance are well-documented.<sup>5</sup> By contrast, there are no studies or points of data to support the purported benefits that the Department imagines.<sup>6</sup> In fact, all available evidence indicates that the source of the problem the Department has identified, the influx of illicit drugs into its facilities, is largely driven by the Department itself:

- In 2021: the Southern District of New York indicted 7 officers for smuggling contraband onto Rikers Island.<sup>7</sup>

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<sup>5</sup> Andrea Marks, 'Digitized Love': How Prison Mail Bans Harm Incarcerated People, Rolling Stone, November 26<sup>th</sup>, 2022, <https://www.rollingstone.com/culture/culture-features/prison-jail-mail-bans-harm-incarcerated-people-1234636421/>

<sup>6</sup> Keri Blakinger and Jolie McCullough, *Texas Prisons Stopped In-Person Visits and Limited Mail. Drugs Got in Anyway*, The Marshall Project, March 29<sup>th</sup>, 2021 <https://www.themarshallproject.org/2021/03/29/texas-prisons-stopped-in-person-visits-and-limited-mail-drugs-got-in-anyway>

<sup>7</sup> *9 Department Of Correction Officers And Employees Charged With Taking Bribes To Smuggle Contraband To Inmates At New York City Jails*, Department of Justice, May 26<sup>th</sup>, 2021, <https://www.justice.gov/usao-sdny/pr/9-department-correction-officers-and-employees-charged-taking-bribes-smuggle-contraband>



- In Sept 2022: Two DOC officers pled to accepting bribes to smuggle and facilitate the sale of narcotics on Rikers Island<sup>8</sup>
- In Nov 2022, *just two board meetings ago*, a DOC official testified about how easy it was for him to smuggle pounds of k2 into Rikers. He specifically cited the fact that the only security measure applied to him upon entry was metal detectors, and that this greatly increased the ease of the smuggling operation.<sup>9</sup>
- In January of this year, the Criminal Justice Committee of the City Council testified to receiving data from the Dept of Investigation that showed a 70% increase in complaints of officers smuggling contraband in the past year.<sup>10</sup>

All available evidence indicates that illicit drugs are entering Rikers from corrections officers, and yet, Commissioner Molina has taken steps to lift staff oversight measures that have been proven to reduce the flow of contraband.<sup>11</sup>

In the last month, the Commissioner has taken an initial step to provide more surveillance over its own staff: last month, a body scanner was installed at RNDC. Assuming that this will eventually be a larger, full roll-out, with body scanners legitimately enforced at all entries to all facilities, we should expect significant results. We ask that the Board wait to evaluate the impact of a comprehensive scanner system on the circulation of contraband before implementing the dehumanizing proposed variances, which will only separate our clients from their communities and support systems even more than they already are.

### III. Conclusion

In conclusion, we ask that the Board continue to exercise its oversight authority over the Department of Correction in this self-declared State of Emergency within NYC jail facilities. Moreover, we urge the Board to deny the Department's proposed mail variances, which are empirically unfounded methods of curbing contraband, cruel and inhumane, and will only further enrich ill-reputed corporations.

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<sup>8</sup> *Two New York City Correction Officers Plead Guilty to Accepting Bribes in Exchange for Smuggling Contraband Into Rikers Island for Gang Members*, United States Attorney's Office, Eastern District of NY, September 20<sup>th</sup>, 2022 <https://www.justice.gov/usao-edny/pr/two-new-york-city-correction-officers-plead-guilty-accepting-bribes-exchange-smuggling>

<sup>9</sup> Jake Offenhartz, *'I brought in contraband': Ex-Rikers guard describes how he smuggled drugs into troubled NYC jail*, Gothamist, Nov. 28, 2022 <https://gothamist.com/news/i-brought-in-contraband-ex-rikers-guard-describes-how-he-smuggled-drugs-into-troubled-nyc-jail>

<sup>10</sup> NYC Council Committee on Criminal Justice Jointly with the Committee on Women and Gender Equity. Oversight - The TGNCNBI Task Force Report Update and TGNCNBI Individuals in Rikers, <https://councilnyc.viebit.com/player.php?hash=KHjEmeBxU28X>

<sup>11</sup> Ginia Bellafante, *Rikers Has a Deadly Contraband Problem. Are Cargo Pants to Blame?*, New York Times, Dec. 17, 2022, <https://www.nytimes.com/2022/12/17/nyregion/rikers-drug-crisis.html>