



NEW YORK CITY
BOARD OF CORRECTION

Statement before the New York City Council

Committee on Criminal Justice
Keith Powers, Chair

February 3, 2020
By Margaret Egan, Executive Director
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Good afternoon Chair Powers and Members of the Committee on Criminal Justice. I am Margaret Egan, Executive Director of the New York City Board of Correction, the independent oversight agency for the City's correctional facilities.

As you know, our role is to regulate, monitor and inspect the City's jails in support of safer, fairer, smaller, more humane jails. The Board (i) monitors conditions of confinement and compliance with our Minimum Standards, (ii) documents systemic issues of a problematic nature and (iii) informs policy decisions and policy improvement with respect to the City's jails. Since its creation in the 1950s, the Board has been focused on data-driven oversight to provide planning assistance to the Department of Correction ("DOC" or "The Department"). While the Board does not have the power or mandate to manage the operations and services within the jails, it does serve an important role in providing ongoing transparency and accountability.

I recently joined the Board of Correction as the Executive Director and in my view, the Board has an incredibly important role to play in moving the jail system forward, particularly as we plan to move into a borough-based jail system. New buildings alone will not solve the challenges currently faced by the Department. With a focus on data and research, as well as qualitative assessment, the Board's development, oversight and monitoring of thoughtful and progressive standards can assist the Department and the City as it seeks to build a criminal justice system

that reflects the City's values and brings dignity and respect to people held within, working in, or connected to the system.

We are here to discuss unacceptable levels of violence in the jails. There is no one response that will reduce levels of violence in the facilities and the Board is committed to working with the Department and all our partners to identify a broad, strategic approach to creating a safe and humane environment for staff and people in custody. Today I will focus on three of those areas; restrictive housing, serious injury reporting and detection of contraband.

As you know, the Board has been working with the Council, the Department, Correctional Health Services (CHS), COBA, City Hall and many advocacy organizations to develop comprehensive restrictive housing rules. The Department has made great progress in developing alternatives to punitive segregation, particularly eliminating punitive segregation for adolescents and young adults, excluding people with serious mental illness and those with serious physical disabilities, and limiting certain PSEG sentences. We believe that a comprehensive set of rules for disciplinary and non-disciplinary housing options can improve safety for all in the jails.

The proposed draft rules on restrictive housing are based on four core principles:

1. Ensuring that people are held in the least restrictive setting for the least amount of time necessary to ensure their own safety, the safety of staff, the safety of others in custody, and the public.
2. Ensuring that those placed into restrictive housing or restrictive statuses are done so in accordance with due process, and procedural justice principles, including explaining disciplinary rules and sanctions when people are first admitted to custody, imposing proportionate sanctions and applying rules fairly and consistently.
3. Promote the rehabilitation of people in custody and reintegrate them into the community by incentivizing good behavior, allowing people placed in restrictive housing as much out-of-cell and programming time as practical, consistent with safety and security and providing necessary programs and resources.
4. Developing performance measures and regularly reporting outcomes to monitor and track compliance with the rules and core principles.

The Board has held two public hearings, and has solicited feedback from the advocacy community, COBA, the Department, CHS, and the general public. This

period of public comment has now ended and the Board will then seek to finalize these rules.

The Board's reporting work is an important component of its oversight and can also aid the Department and CHS in identifying and working to solve these problems. One example is the Board's work on summarizing data on serious injuries to people in custody and auditing serious injury reports. In January of 2019, the Board released the first public accounting of serious injuries overtime. The report found that the Department reported 81% fewer serious injuries than were diagnosed by CHS.

Following this report, in July of 2019, the Board unanimously approved rules on the prevention, reporting, and investigation of injuries. These rules require the Department and CHS to issue joint, monthly public reports on serious injuries. Both agencies have committed significant resources to develop the reporting protocols. We are now working closely with the Department and CHS to fine tune these protocols and the reports themselves and hope to make those reports public shortly. We believe these reports will be important tools for the Board, Department, CHS, the Council and the public to understand the types, circumstances, and rates of serious injuries occurring in NYC jails and take informed, meaningful steps to address.

Finally, I also want to discuss the Board's reporting around the implementation of body scanners and Separation Status, which is another form of highly restrictive housing. Body scanners are a new security tool that use low-dose ionizing radiation to detect contraband. When someone has a positive scan or refuses to be scanned, the Department concludes the person possesses contraband and places them in Separation Status. We believe that detection of contraband is incredibly important to the safety and management of the jails and the Board fully supports the use of body scanners.

The Board released a report in January evaluating the implementation of the body scanners and the Department's initial use of the scanners and Separation Status. Our findings showed a chaotic rollout of the scanners which included unnecessarily restrictive conditions in Separation Status. In all, the report makes 22 recommendations to the Department and CHS on improvements to body scanner and separation status practice and policy. One critical issue raised in our analysis was the operation of the body scanners by those who had not received the appropriate training. This creates a risk of radiation exposure to staff and people in custody and the potential for misinterpretation in scans. False negatives undermine

the Department's ability to use scanners effectively as a tool to identify contraband while false positives lead to unnecessary placement in Separation Status.

To its credit, the Department has responded to this training issue and begun to address other findings in the report including referring verified instances of improper scanner operation to the Investigation Division for investigation and discipline, issuing security memorandum reiterating the training requirements, ongoing revisions to their training curriculum, and monthly audits to assess the impact of these efforts moving forward. We look forward to continuing to work with the department to ensure the efficacy of the body scanners and the appropriate use and operation of the Separation Status unit.

Again, these are just a few areas of our focus in addressing the disturbing and complicated issue of violence in the jails. We look forward to continuing to work closely with the Department and CHS on these issues and others to meet the goal that we all seek. To meaningfully reduce the violence in the City's jails.

Thank you for the opportunity to address you. I am now happy to take your questions.