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Martha W. King  
*Executive Director*

January 3, 2019

**Via E-Mail**

Cynthia Brann, Commissioner  
New York City Department of Correction  
75-20 Astoria Boulevard  
East Elmhurst, NY 11370

**Re: DOC Compliance with Sexual Abuse and Harassment Standards**

Dear Commissioner Brann:

I write in response to your December 10, 2018 letter regarding the Department's compliance with the Board's Minimum Standards on the Elimination of Sexual Abuse and Sexual Harassment in the City's jails ("Chapter 5 Standards").

On October 8, 2018, the Board of Correction ("BOC" or "Board") unanimously passed a resolution finding the Department of Correction ("DOC" or "Department") in violation of portions of §§ 5-30 and 5-40 of the Chapter 5 Standards.<sup>1</sup> In so doing, the Board stated that these violations are unacceptable because (i) timely and comprehensive investigations are critical to ensuring justice for survivors of sexual violence and harassment, (ii) affording due process to alleged perpetrators of sexual violence will promote integrity and fairness in the adjudicatory process, and (iii) guaranteeing accountability to all involved will likely deter sexual violence in the City's jails.

Since the Department is in violation of these Standards, it must take immediate corrective action. I know you take seriously compliance with the Board's Minimum Standards and I appreciate the work that DOC has done in recent months to improve its compliance with

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<sup>1</sup> Section 5-30 sets forth requirements for investigating allegations of sexual abuse and harassment while § 5-40 sets forth requirements for data collection and review of alleged incidents of sexual abuse.

other Chapter 5 provisions. However, more work is urgently needed in the areas outlined in the Board's October 2018 resolution ("Resolution"): namely, BOC expects the Department to submit a Corrective Action Plan that includes detailed timelines and steps for (1) achieving full compliance with §§ 5-30 and 5-40; and (2) implementing a computerized case management system for sexual abuse and harassment claims.

### **Section 5-30 Violations**

Minimum Standard § 5-30 requires that DOC take specific action to ensure prompt, thorough and objective investigations of all allegations of sexual abuse and harassment. In September 2018, BOC staff released the results of its audit of 42 DOC investigation reports related to sexual abuse and harassment incidents that occurred between January 2010 and December 2017. The audit documented significant gaps in the Department's investigations and showed that DOC was in violation of multiple provisions of § 5-30 (e.g., 5-30(q); 5-30(c); 5-10(a); 5-30(f)(2); 5-30(m)).

### **Section 5-40 Violations**

Minimum Standard § 5-40 requires the Department to provide the Board with data on each alleged incident of sexual abuse (§ 5-40(d)). Section 5-40 further requires that DOC review this incident data to assess and improve the effectiveness of its sexual abuse and sexual harassment prevention, detection, and response policies, practices, and training and share these assessments in semiannual public reports. These requirements reflect our shared commitment to a strategic, data-driven approach to compliance and ongoing public transparency.

As noted in our Resolution and detailed further in BOC staff communications, DOC's 5-40 data reports are missing data elements required by the Standards; moreover, BOC has been unable to reconcile the individual-level data that DOC provided with the information presented in the Department's public semiannual assessment reports. Board staff has requested but not received complete data files and an updated template for DOC's semiannual report to ensure clarity and transparency in future reporting. Our staff also has not received a response to requests for meetings regarding § 5-40 reporting and compliance. The Department's noncompliance with § 5-40 seriously impedes the Board's ability to effectively monitor and assess compliance with its Chapter 5 Standards.

### **DOC's Response to the Board's Resolution**

The Department failed to respond to the Resolution by deadlines outlined by the Board. Instead, your December 10, 2018 letter noted DOC's recent efforts to improve its compliance with the Chapter 5 Standards. While these are steps in the right direction, they do not go far enough in correcting longstanding violations of the Board's rules that require meaningful investigation and data reporting of allegations of sexual abuse and harassment.

### **Next Steps and a Special Hearing in April**

To demonstrate compliance, the DOC needs to prepare a Corrective Action Plan that clearly articulates goals and the timelines for achieving them. The Department's Plan should be shared with the public so that stakeholders are assured that DOC is taking all necessary steps to prevent, detect, and respond to sexual violence in the jails.

We look forward to discussing these matters with you at the February 12, 2019 public meeting. The Board has also decided to hold a special public hearing in April 2019 exclusively focused on the Department's compliance with the Board's Standards on Sexual Abuse and Harassment. We will be in touch to schedule a time that works for you and your staff.

Sincerely,



Derrick D. Cephas

cc: DOC  
Heidi Grossman  
Brenda Cooke  
Sarena Townsend  
Faye Yelardy

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