



Testimony of

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Before the

City Council Committee on Women and Gender Equity  
and  
Committee on Criminal Justice

Oversight Hearing on Women’s Experiences in City Jails

Intros. 1646; 1491; 1209

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My name is Lyndsay Lewis and I am a forensic social worker at New York County Defender Services (NYCDS). We are a public defense office that represents New Yorkers in thousands of cases in Manhattan’s Criminal Court and Supreme Court every year. Thank you to Chairs Diaz and Powers for holding today’s hearing to discuss female-identifying clients’ experiences in city jails and thank you to Council Member Rosenthal for introducing the bills on the agenda, all of which we support.

## **I. Background**

As a forensic social worker at NYCDS, I advocate for lesser incarcerative sentences or alternatives to incarceration for our clients pre-plea and pre-sentencing in the criminal court system. Additionally, I provide case management for the client and their family to ensure they are connected to alternative to incarceration programs, mental health services, substance abuse services, and any other support services that they may need.

Women make up roughly a tenth of those confined in the country’s prisons and jails, but women are now the fastest growing incarcerated population. More than 200,000 women are currently

held in prison or jail, an increase of more than 700 percent since 1980.<sup>1</sup> An estimated 1,700 pregnant people pass through state or local corrections custody per year in New York. On a given day, there are approximately 12-15 pregnant people in New York State prisons and about 110 in local jails.<sup>2</sup>

NYCDS represents hundreds of incarcerated women every year. Between 2016-2020, NYCDS represented a total of 5803 women with 994 incarcerated. About 17% of our female-identifying clients are required to fight their open court cases from jail every year.

## **II. Conditions in the Rose M. Singer Center on Rikers Island**

Prior to working at NYCDS, I worked at The Osborne Association in Court Advocacy Services and assisted with the rollout of the Second Look initiative.<sup>3</sup> With Second Look, I performed screenings in New Admission Housing at Rose M. Singer Center (often called Rosie's) in an effort to assist women and their defense counsel with quick bail applications for release on a nonfinancial basis and performed case management as needed. Seeing the conditions firsthand in new admissions made me feel lucky every day that I was at liberty to leave the facility at my own will. But I was horrified by the conditions in the facility that these women were forced to endure after the trauma of their arrests.

I saw on multiple occasions the bathrooms overflowing, forcing women to mop up the feces from their dormitory floor. The women were placed on rows of thin fabric cots that were very close together, and they were often not seen by service providers except for us upon arrival. Women are entering prisons that are programmed for men even though their needs are entirely different. In recent years, legislation attempting to address these concerns has achieved mixed success at the federal and state level.<sup>4</sup> But at Rosie's, conditions remain bleak. The City Council must require the DOC to do better.

## **III. Trauma and Mental Health**

After new admissions, the potential horrors and trauma of incarceration continues for women and girls. Protecting incarcerated women from physical and sexual violence is especially important because most incarcerated women are already survivors of abuse. A staggering 86% of women in jail have experienced sexual violence,<sup>5</sup> and between 77% and 98% of incarcerated women have

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<sup>1</sup> Elaine McMillion Sheldon, "The Separation," *The Marshall Project*, May 6, 2020, available at <https://www.themarshallproject.org/2020/05/06/the-separation>

<sup>2</sup> Geunsaeng Ahn, "Abolition Is Not a One Time Event: Prison Doulas as Catalysts," *AAWW Magazine*, available at <https://aaww.org/abolition-is-not-a-one-time-event-prison-douglas-as-catalysts/#:~:text=Prison%20douglas%20are%20no%20different,is%20to%20destroy%20our%20humanity.>

<sup>3</sup> The Osborne Association, "Second Look: A Program of Court Advocacy Services," available at [https://gallery.mailchimp.com/75a197e2f4f46827d5ed747d8/files/60501e23-c639-4013-aec1-7b5b90a0ebd4/2019\\_6\\_28\\_SecondLook\\_Participant\\_Flyer\\_3.pdf](https://gallery.mailchimp.com/75a197e2f4f46827d5ed747d8/files/60501e23-c639-4013-aec1-7b5b90a0ebd4/2019_6_28_SecondLook_Participant_Flyer_3.pdf).

<sup>4</sup> Jessica Mitten, "Dignity Behind Bars: The Ongoing Legislative Efforts to Protect Incarcerated Women," 22 *Georgetown Journal of Gender and the Law* 1, Fall 2020, available at [https://www.law.georgetown.edu/gender-journal/wp-content/uploads/sites/20/2020/11/Final-Draft\\_Jessica-Mitten\\_Dignity-Incarcerated-Women.pdf](https://www.law.georgetown.edu/gender-journal/wp-content/uploads/sites/20/2020/11/Final-Draft_Jessica-Mitten_Dignity-Incarcerated-Women.pdf).

<sup>5</sup> Elizabeth Swavola, Kristine Riley, & Ram Subramanian, "Overlooked: Women and Jails in an Era of Reform," Vera Institute of Justice, available at <https://www.vera.org/downloads/publications/overlooked-women-and-jails-report-updated.pdf>

been exposed to interpersonal violence. According to a DOJ report, staff sexually victimized at least 50 of the 800 women housed at Rosie's, at any given time—although as many as 98 percent of all sexual assault incidents go unreported.<sup>6</sup> The importance of actively protecting incarcerated women from sexual violence is compounded by findings that nearly two-thirds of sexual assault survivors are revictimized in their lifetime.<sup>7</sup> Furthermore, incarcerated women experience higher rates of serious mental illness than both the general population and incarcerated men.<sup>8</sup>

Yet at Rosie's, there are too few staff to meet the medical and mental health needs of all the incarcerated women. This often results in long delays in obtaining medical attention; disrupted and poor-quality treatment causing physical deterioration of prisoners with chronic and degenerative diseases; overmedication of prisoners with psychotropic drugs; and lack of mental health treatment. The use of non-medical staff to screen requests for treatment is also common. Rates of women suffering from post-traumatic stress disorder are very high and very little counseling is provided. Medication without psychotherapeutic treatment will not solve the problem.<sup>9</sup>

Additionally, when domestic violence survivors in New York defend themselves, our criminal legal system all too often responds with harsh punishment instead of compassion and understanding. This pattern is a result of sentencing requirements which do not give judges discretion to fully consider the effects of abuse when determining sentence length.<sup>10</sup> Most studies of incarcerated women have observed high rates of victimization that link violence in women's lives to their entry into the criminal justice system as defendants. We need more advocates and services in jails that are accessible, culturally appropriate, respectful, and useful to the specific context of women's lives.<sup>11</sup> We also need to put in place legal mechanisms to divert as many women as possible from jails and prisons altogether.

As a forensic social worker, I provide my clients with trauma-informed support and connect them with trauma-informed services, wherever possible. The three pillars of trauma-informed care are safety, connections, and managing emotions. Within the pillar of safety, any healing must start by creating an atmosphere of safety and formal therapy is unlikely to be successful until this critical element is in place. Consistency, reliability, predictability, availability, honesty, and transparency are all care attributes that are related to the creation of safe environments. Safety itself depends on the development of the second pillar, comfortable connections. What leads to positive outcomes in psychotherapy are the qualities of the therapeutic relationship itself, which accounts for twice as much positive change as the specific therapeutic techniques that are

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<sup>6</sup> Deanna Hoskins & Marilyn Reyes-Scales, "Women Are Not Safe on Rikers Island," *Ms. Magazine*, Oct. 10, 2018, available at <https://msmagazine.com/2018/10/10/women-not-safe-rikers-island/>

<sup>7</sup> [https://www.law.georgetown.edu/gender-journal/wp-content/uploads/sites/20/2020/11/Final-Draft\\_Jessica-Mitten\\_Dignity-Incarcerated-Women.pdf](https://www.law.georgetown.edu/gender-journal/wp-content/uploads/sites/20/2020/11/Final-Draft_Jessica-Mitten_Dignity-Incarcerated-Women.pdf)

<sup>8</sup> Shannon Lynch, et al., Looking Beneath the Surface: The Nature of Incarcerated Women's Experiences of Interpersonal Violence, Treatment Needs, and Mental Health, 381 *FEMINIST CRIMINOLOGY* 382 (2012)

<sup>9</sup> Amnesty International, "Women in Prison: A Fact Sheet," available at [https://www.prisonpolicy.org/scans/women\\_prison.pdf](https://www.prisonpolicy.org/scans/women_prison.pdf).

<sup>10</sup> Sanctuary for Families, The Domestic Violence Survivors Justice Act, available at <https://sanctuaryforfamilies.org/our-approach/advocacy/justice-for-incarcerated-survivors-ny/>.

<sup>11</sup> Mary E. Gilfus, "Women's Experiences of Abuse as a Risk Factor for Incarceration, VAWNET, Dec. 2002, available at [https://vawnet.org/sites/default/files/assets/files/2017-08/AR\\_Incarceration.pdf](https://vawnet.org/sites/default/files/assets/files/2017-08/AR_Incarceration.pdf).

used. This mirrors the findings of research into resilience, which again points to the primacy of positive connections. The last pillar, emotion and impulse management, requires the person to observe that the ability to manage emotions adaptively or to self-regulate is one of the most fundamental protective factors for healthy development. Traumatized individuals need to be taught and supported to learn new ways of effectively managing their emotions and impulses.<sup>12</sup>

While the theory of having a comprehensive training program for the investigation of sexual crimes is well intentioned, without consistent follow up trauma-informed care and therapeutic services, the good intentions fall to the wayside. Knowing that abuse and incarceration are both meant to isolate and diminish the person, we call for more restorative resources and options for survivors.<sup>13</sup>

#### **IV. LGBTQIA+ Individuals in Custody**

New York's criminal legal system often refuses basic rights to TGNCNB individuals who are incarcerated. TGNCNB (Transgender; Non-conforming; non-binary) people face much higher rates of discrimination, violence, lost opportunity, and the lack of access to basic needs. A bill introduced in the State Assembly by Assembly Member Rozic, A691, would ensure that TGNCNB individuals are housed consistent with their gender identity, referred to by their name and pronouns even if they do not have legal paperwork, and given access to gender affirming items.<sup>14</sup> NYCDS calls on the City Council to support this legislation at the state level.

Human Rights Watch has documented groups of women who are likely targets for sexual abuse. Perceived or actual sexual orientation is one of four categories that make a female-identifying incarcerated person a more likely target for sexual abuse, as well as a target for retaliation when she reports that abuse. The case of Robin Lucas depicts how sexual identity may subject a woman to further abuse or torture by a guard. Ms. Lucas was placed in a men's prison where male guards allowed male inmates to rape her. The male guards taunted her about her same sex relationship, saying to her "maybe we can change your mind."<sup>15</sup>

LGBTQI/GNC people are also severely impacted. Due to racism, homelessness and law enforcement bias, LGBTQI/GNC people of color are over-represented in the carceral system and likelier to endure harsher conditions while incarcerated, such as being subjected to solitary confinement. Trans women have been severely mistreated on Rikers; nationwide, 34 percent of incarcerated trans people will experience at least one incident of sexual violence—more than eight times the rate for detainees overall.<sup>16</sup> For all of these reasons, we call on City Council to

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<sup>12</sup> See Howard Bath, "The Three Pillars of Trauma-Informed Care," *Reclaiming Children & Youth*, Fall 2008, available at <https://elevhalsan.uppsala.se/globalassets/elevhalsan/dokument/psykologhandlingar/trauma-informed-care.pdf>

<sup>13</sup> See Survived & Punished, "Analysis & Vision," available at <https://survivedandpunished.org/analysis/>.

<sup>14</sup> Equality New York, Gender Identity Respect Dignity and Safety Act, available at <https://www.equalityny.org/policy/gender-identity-respect-dignity-and-safety-act/>.

<sup>15</sup> Amnesty International, "Women in Prison: A Fact Sheet," available at [https://www.prisonpolicy.org/scans/women\\_prison.pdf](https://www.prisonpolicy.org/scans/women_prison.pdf).

<sup>16</sup> Deanna Hoskins & Marilyn Reyes-Scales, "Women Are Not Safe on Rikers Island," *Ms. Magazine*, Oct. 10, 2018, available at <https://msmagazine.com/2018/10/10/women-not-safe-rikers-island/>

take extra efforts to ensure that LGBTQI/GNC people are treated fairly and humanely by DOC staff.

## **V. Testimony from NYCDS client Rona Love**

NYCDS represents Rona Love, a trans woman currently incarcerated at the Rose M. Singer Center. She asked us to share her testimony with the Council, so that you can hear directly from a person incarcerated on Rikers about what they are experiencing.

*The Department of Corrections seems to punish the LGBTQ community more than anyone else. The medical system in jail is a failure for our specific needs. Even if we are behaving well, we are denied services. We can't get to mental health when we want to or need it. I had a death in my family and was denied additional mental health services. No one ever told me my brother was seriously ill in the hospital, and no one ever told me when he died. I was not able to see a Chaplin or Rabbi as requested.*

*You are in a hell by yourself here. This is why there is so much violence in my community. The Board of Correction is far from understanding the problems going on in here. There are lots of good officers, but some bad ones and the overall problem is that the officers have no control. In my community, when people act out, they are shipped out. When other non-LGBTQ people act out, they are not transferred to a facility with a gender they do not identify with as punishment. They just get written up. Officers will have other inmates call PREA on people in RMSC to get them removed and transferred. The trans community has tried to request investigations of officer misconduct, but we are ignored.*

*In conclusion, I hope that at some point, the Board of Correction, City Council, and the PREA Task Force will create a better system to protect the LGBTQ community in female facilities and stop using male facilities as a weapon of punishment. This would help us have better communication with staff to connect and address all of the serious problems that go on in my community and in this system. All we want is to be treated equally like the rest of the women. Peace, love, and understanding amongst us all.*

## **VI. Doulas in Jails**

No woman should be forced to give birth while incarcerated. But for those who are, doulas can play a crucial role in improving maternal and fetal outcomes.<sup>17</sup> Yet it is our understand that DOC rules prohibit doulas from providing physical touch to our incarcerated birthing clients.<sup>18</sup> According to recent data from the Johns Hopkins School of Medicine, in some states over 20% of prison pregnancies resulted in miscarriages; in others, preterm birth rates exceeded the

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<sup>17</sup> Virginia Pendleton, Jennifer B. Saunders & Rebecca Shlafer, "Correction officers' knowledge and perspectives of maternal and child health policies and programs for pregnant women in prison," 8 Health & Justice, Jan. 2020, available at <https://healthandjusticejournal.biomedcentral.com/articles/10.1186/s40352-019-0102-0>.

<sup>18</sup> Ahn, *ibid* note 2.

national average (about 10%). Doulas provide a source of support that women would not otherwise have when giving birth in custody. The doula provides physical, emotional, and information support to the women during their labor, delivery, and recovery.<sup>19</sup>

## **VII. Re-entry Needs**

Formerly incarcerated women have higher rates of unemployment and homelessness than formerly incarcerated men. Given the dramatic growth of women's incarceration in recent years, it's concerning how little attention and how few resources have been directed to meeting the reentry needs of justice-involved women. After all, we know that women have different pathways to incarceration than men, and distinct needs, including treatment of past trauma and substance use disorders, and more broadly, escaping poverty and meeting the needs of their children and families.<sup>20</sup> Women and girls accounted for at least 1.8 million releases from local jails in 2013 (the last year all jails were surveyed). While many people are released from jail within a day or so and may not need reentry support, jail releases can't be overlooked, especially for women, who are more likely than men to be incarcerated in jails as opposed to prisons.

Moreover, jails typically provide fewer programs and services than prisons, so people released from jails are even less likely to have received necessary treatment or services while incarcerated than those in prison. The reentry supports should be responsive to the particular needs of justice-involved women including economic marginalization and poverty, housing, trauma and gendered pathways to incarceration, and family reunification. In addition to adding doulas to jails, the ability to train women to be doulas as a vocational skill in jail should be accessible as well.

## **VIII. The Proposed Legislation**

- a. Int. 1646 (Rosenthal & Louis) A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of correction to use an electronic case management system to track investigations of sexual abuse*

NYCDS endorses Local Law Int. No. 1646 with no specific comments.

- b. Int. 1491 (Rosenthal, Brannan, Chin and Lander) A Local Law to amend the administrative code of the city of New York, in relation to requiring the commissioner of correction to develop a comprehensive training program for investigation of sexual crimes*

NYCDS supports passage of Intro. 1491. As noted above, when working with incarcerated women, a trauma-informed approach is always preferred. However, this bill falls short in failing to address the real issue that all people who experience sexual violence on Rikers face.

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<sup>19</sup> Shlafer et al, "Doulas' Perspectives about Providing Support to Incarcerated Women: A Feasibility Study," Public Health Nurs., July 1, 2016, available at [https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4281502/#:~:text=In%20the%20present%20study%2C%20doulas,abor%2C%20delivery%2C%20and%20recovery.](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4281502/#:~:text=In%20the%20present%20study%2C%20doulas,labor%2C%20delivery%2C%20and%20recovery.)

<sup>20</sup> Wendy Sawyer, "Who's helping the 1.9 million women released from prisons and jails each year?", Prison Policy Initiative, July 19, 2019, available at [https://www.prisonpolicy.org/blog/2019/07/19/reentry/.](https://www.prisonpolicy.org/blog/2019/07/19/reentry/)

If a person reports a sexual crime, urgent and more frequent mental health/traditional therapy visits should be provided. That is not the case now. Psychotherapy, when available in a correctional setting, seems more related to resolving immediate crises that interfere with smooth management of the corrections environment rather than dealing with underlying problems such as past sexual abuse.<sup>21</sup> While more robust investigation of sexual assault is certainly overdue, the real issue is providing any person who has been assaulted access to meaningful mental health support. That can never occur in a jail or prison setting and thus we must be focusing all our efforts on diverting as many people as possible from city jails in the first place, so that they are never exposed to sexual or physical violence or the myriad other harms of incarceration.

***c. Int. 1209 (Rosenthal, Ampry-Samuel, Cornegy and Ayala) A Local Law to amend the administrative code of the city of New York, in relation to permitting pregnant incarcerated individuals in department of correction custody to utilize doula and midwife services in the delivery room***

NYCDS also supports Intro. 1209, which facilitates access to doula and midwife services for pregnant incarcerated people. The best way to ensure the health and safety of mothers and their new babies is by finding alternatives to incarceration for pregnant women, as exposure to the stresses and traumas of incarceration pose serious threats to maternal and fetal health. However, for women who are incarcerated through their pregnancies, availability of doulas and midwife services is essential to allowing them a personalized and comfortable delivery experience. Many incarcerated pregnant women come from poor communities of color, and therefore are part of demographic groups much more likely to die during childbirth.<sup>22</sup> Doulas and midwives are often sought out as an alternative or supplement to traditional hospital births, and provide a more patient-centered approach to delivery by working closely with birthing mothers to ensure that their voices are heard. Doulas and midwives, when requested, empower women and help them feel safer while giving birth in a medical system that disadvantages pregnant women of color. Access to these services must be extended to incarcerated women. Yet as with Intro. 1491, we urge the Council to not see this bill as a panacea to the harms that birthing women face while incarcerated. Yes, this bill should pass. But more importantly, we must work together to end the practice of jailing pregnant and birthing mothers in our city altogether.

## **IX. Conclusion**

NYCDS supports the bills on today's agenda with amendments. They are an important step in ensuring our jails become a safer and more reformative environment for the women and women-identifying individuals in custody. If you have any questions about my testimony, please contact me at [llewis@nycds.org](mailto:llewis@nycds.org).

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<sup>21</sup> Kimberly L. Cole, Pamela Sarlung-Heinrich, & Laura S. Brown, "Developing and Assessing Effectiveness of a Time-Limited Therapy Group for Incarcerated Women Survivors of Childhood Sexual Abuse," 8 *Journal of Trauma & Dissociation* (2007), available at [https://www.tandfonline.com/doi/abs/10.1300/J229v08n02\\_07](https://www.tandfonline.com/doi/abs/10.1300/J229v08n02_07).

<sup>22</sup> Alice Proujansky, "Why Black Women Are Rejecting Hospitals in Search of Better Births," *NY Times*, March 11, 2021, available at <https://www.nytimes.com/2021/03/11/nyregion/birth-centers-new-jersey.html>.