



Testimony of

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We are Natalie Fiorenza and Rachel Sznajderman, Corrections Specialists, and Joshua White, Trial Attorney, 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.

I. RESH Access to Counsel Issues and Unacceptable Living Conditions

In June, without any apparent planning or notice, the Department of Correction began a sudden move of the ESH units previously located at GRVC to Rose M. Singer Center. To operationalize a move of this magnitude, extensive planning, consultation with stakeholders, and logistical coordination would be expected. Instead, DOC executed the move with no notice to stakeholders, no advanced training for corrections officers, no apparent development of protocols for counsel visits, medical visits, recreation time, programming or meals, and no prior construction of necessary physical spaces.

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As expected, the rollout in the wake of this hastily decided, poorly executed policy has been nothing short of a disaster. NYCDS staff have directly experienced the chaos and dysfunction in trying to gain access to their clients housed in this unit. When we have been able to connect with these individuals, they report abhorrent conditions.

a. The Inaccessibility of Individuals Housed at RESH Rises to Constitutional Violations

For months, our office has been unable to meet with our clients housed in RESH due to the Department's dysfunction, ineptitude, and shocking lack of concern for visitors' safety.

As we reported at the last Board meeting, one of our staff members, Christopher Boyle, was exposed to a serious and highly reckless security breach when he first visited RESH in early July. After waiting two hours at RMSC to be escorted to RESH, Mr. Boyle was finally brought into the newly created unit, which appeared completely unstaffed when he arrived. Fifteen minutes later, after concluding his meeting with his client, Mr. Boyle looked for the officer who escorted him, but could not find a single corrections staff member in sight. Mr. Boyle searched the entire RESH unit for a corrections officer. He eventually found a captain who let him out of the housing area.

Since this experience, which represents a major departure from acceptable visitor safety protocol, no NYCDS staff have attempted to visit our clients housed in RESH for security reasons. However, we have been in communication with other NYC defender offices who report even more harrowing recent experiences at RESH counsel visits, including being locked in jail cells for hours, their presence apparently forgotten.

Because the Department cannot provide basic safety guarantees for in-person counsel visits, our staff have attempted to access our clients through videoconferencing. However, we have encountered significant problems with the videoconferencing system for RESH. The Department routinely fails to bring our clients to their scheduled appointments, and sometimes inexplicably brings the wrong individual.

Over the last eight weeks, our office has repeatedly communicated these issues - via email and phone - with the Department and its Legal Division. We have not heard a response. We continue to await the development of a secure, coordinated protocol to safely carry out counsel-visits in RESH. Until then, we consider the current state of affairs to be tantamount to a violation of our clients' 6th Amendment right to effective assistance of counsel under the U.S. Constitution.¹

¹ *Benjamin v. Fraser*, 264 F.3d 175, 187 (2d Cir. 2006) (“[J]ail procedures that “restrict[] pretrial detainees’ contact with their attorneys [are] unconstitutional where they ‘unreasonably burdened the inmate’s opportunity to consult with his attorney and to prepare his defense.’”).

b. The Reports of NYCDS Clients Held In RESH Should Shock the Conscience

Our clients continue to report appalling conditions within the new RESH facility. In mid-August, one teenage NYCDS client reported no blankets, inadequate food, and limited access to showers. Others have reported missed meals and food deliberately withheld by corrections staff. One NYCDS client noted difficulty in getting water. In the words of one NYCDS client housed at RESH, “long story short, if we piss off the CO they won’t feed us.” As our office reported in previous testimony, the facilities themselves are filthy and infested with vermin and cockroaches. Correction staff refuse to clean the cells and refuse to provide cleaning supplies - even water and paper towels - to the individuals housed there. Clients report no programming and little to no access to out-of-cell time.

The Department’s treatment of public defense staff offers us a glimpse at the horrific conditions our detained clients endure in RESH. Below are samples of the reports from clients that our office has fielded over the last few months.

II. NYCDS Clients Continue to Suffer Egregious Acts of Violence and Human Rights Violations Across NYC Jails.

Outside of RESH, atrocious conditions and routine human rights violations abound. We expect the Department to testify today, as they always do, about dramatically improving conditions, about [“progress” occurring “at a breakneck pace.”](#) about a utopian dream community developing on Rikers Island. Our clients who are detained at Rikers and the NYCDS staff who visit them there tell a starkly different story. Below are the recent accounts of some of the incarcerated individuals we represent.

- A. Individual at EMTC: Our office recently represented an individual facing misdemeanor charges who was incarcerated at EMTC at Rikers. Last month, this individual reported going to bed each night without sheets or blankets, and showering without towels. He reported that the food and phones in his facility are controlled by gangs, and that violence and fighting is widespread. The conditions and security issues were so severe that he asked his attorney if there was any way he could receive a sentence longer than one year so that he could be sent to an upstate prison facility.
- B. Individual at RNDC: One of NYCDS's young adult clients was recently housed at RNDC for nearly ten days without any out-of-cell time. In addition, he reported that he was refused access to mental health services and showers. He did not have access to phone calls during this period. Finally, he reported that he was not provided basic sanitary items, like a toothbrush, soap, towel, or even toilet paper.

III. Major Incidents That Have Occurred in the Months Since the Last Board Meeting:

It has been nearly eight weeks since the last Board meeting, an eternity for those trapped in NYC jails who desperately await some semblance of order and security in their daily lives.

In this time, the conditions in NYC jails have continued to devolve, and the administrative dysfunction in the Department has continued to spiral. Our city suffered the death of two New Yorkers, Curtis Davis, [who died under suspicious circumstances](#) on July 23rd, and Donny Ubiera, who died on August 22nd [after guards ignored his pleas for medical assistance](#). In addition, in recent weeks, the Department has undertaken serious structural changes to its facilities and population management - the planned closure of AMKC and the [unannounced, abrupt closure of VCBC](#). Finally, in the last week of August, the [Deputy Commissioner of Legal Affairs resigned](#), the latest in a [series](#) of [alarming](#) departures among the Department's executive leadership team since Commissioner Molina assumed his position.

In this volatile climate of chaos and turmoil, NYCDS urges the Board to increase the frequency of its scheduled meetings to keep closer oversight of NYC jails and give stakeholders and those detained more opportunities to report on alarming trends.

Thank you for holding this meeting and listening to our concerns. If you have questions about our testimony, please email correctionsspecialists@nycds.org.