

**December 4, 2017**

**Testimony of Maureen Belluscio  
On behalf of New York Lawyers for the Public Interest  
Before the New York City Council's Committee on  
Fire and Criminal Justice Services**

My name is Maureen Belluscio. I am a Disability Justice Program Staff Attorney with New York Lawyers for the Public Interest (NYLPI).

On behalf of NYLPI, I thank Councilmember Elizabeth S. Crowley, Chair of the City Council Committee on Fire and Criminal Justice Services, for conducting this hearing.

By way of background, NYLPI is a civil rights non-profit organization that operates under the community lawyering model. The community lawyering model aims to address systemic issues faced by communities, and emphasizes an active role for community members to address these issues. NYLPI's Disability Justice Program works to advance civil rights and ensure equality of opportunity, self-determination, and independence for people with disabilities. On behalf of our clients and the communities we serve, we thank the City Council for their commitment to addressing the myriad of systemic and structural issues plaguing Rikers Island. My testimony today focuses on the experiences of people who have mobility impairments and people who have intellectual disabilities, but note that the treatment of people with all types of disabilities on Rikers is sorely lacking.

According to the Mayor's Office for People with Disabilities 2017 Accessible NYC annual report, there are almost 1 million New Yorkers who have disclosed living with a disability, which is over 11% of the City's population. We do not have access to statistics regarding the number of people who have disabilities on Rikers Island, but we assume that the percentage is similar.

People who have Mobility Impairments

People who have physical disabilities which affect their mobility, are generally held in two facilities on Rikers, both of which contain multiple architectural barriers impeding access. Men are held in the North Infirmity Command (NIC). Women are held at the Rosie M. Singer Center (Rosie's). From Freedom of Information Law (FOIL) requests made by our office, and anecdotally from other advocates with whom we work, it appears that there is no organized system for providing legally mandated accommodations for people with mobility impairments. Reasonable accommodations are modifications or adjustments to structures, policies and procedures that afford people with disabilities equal access. Government agencies are required by federal, state, and local antidiscrimination laws to make reasonable accommodations to ensure accessibility for people with disabilities.

Based on our and other advocates' investigations in recent years, NIC and Rosie's both contain a multitude of physical barriers which impede access to the facilities themselves and to the services provided by the New York City Department of Correction (DOC). In both NIC and Rosie's, our clients

have reported inadequate facilities for physical therapy, deteriorating and inaccessible bathrooms, inaccessible showers, inaccessible sinks, and inaccessible entrances and exits. Mobility devices, such as wheelchairs and canes, are taken and never returned. People are denied medical beds. Counsel visit areas are inaccessible. Telephones likewise do not accommodate wheelchairs of any size, and ramps are missing railings. Court transports for people with mobility impairments run incredibly late, such that when people with mobility impairments return from Court, they are denied access to showers. Requests for reasonable accommodations to address these issues are routinely ignored.

Our former client, Mr. A, is paralyzed and has muscular dystrophy. One of his legs has been amputated. He uses a wheelchair. He requested a medical bed repeatedly and was ignored, despite falling out of his standard-issue bed at NIC on multiple occasions and injuring himself. There was only one accessible toilet in his unit at NIC, although there were ten other wheelchair users housed there. He put in multiple grievances about these issues, all of which were ignored.

Our former client, Mr. B, is paralyzed and uses a wheelchair. His motorized wheelchair was confiscated during his intake. The wheelchair he was given at NIC did not have armrests, and he was unable to transfer independently in and out of this wheelchair, as he had consistently done with his own wheelchair prior to arriving at Rikers. There was no shower chair available in his unit, and he was forced to shower in his wheelchair. He put in multiple grievances about these issues, all of which were ignored.

#### People who have Developmental or Intellectual Disabilities

People who have developmental or intellectual disabilities are generally among the most vulnerable populations in jail and prison settings. However, despite this known risk, there do not appear to be adequate systems in place to ensure that this population receives appropriate care while in DOC custody, or adequate discharge planning when they are released.

New York State's Office for People with Developmental Disabilities (OPWDD) is required to provide extensive services to people with developmental or intellectual disabilities throughout New York State to live and function as independently as possible. However, once a person who has a developmental or intellectual disability enters DOC's custody, OPWDD does not provide aid, and rejects applications for such aid. DOC likewise does not provide the needed aid. This leads to a lack of continuity of care, which can affect a person's ability to live and function independently once they are released.

Those who did not receive OPWDD services prior to entering DOC's custody are even more vulnerable to this failure to provide adequate services. OPWDD fails to evaluate new DOC intakes, and DOC does not assist such individuals any more than it assists those who were previously receiving services from OPWDD.

While in DOC custody, people who have developmental or intellectual disabilities are often placed in the general population. Even when officers identify a person as having a developmental or intellectual disability, Rikers does not have adequate services to assist with the daily care, let alone the vocational training and community exposure, required to appropriately serve this population. Lack of officer training on the subject, and the chaotic nature of these facilities, render this population extraordinarily vulnerable to decompensation and abuse.

Furthermore, although people who have developmental or intellectual disabilities require re-entry services upon release from custody, DOC does not coordinate with OPWDD to secure transition support. Even if an individual previously received OPWDD services, the person is on their own for re-entry certification,

and is often rejected by OPWDD for such services. As a result, this population returns to the community disconnected from resources to which they are entitled.

Our former client, Ms. C, has a developmental disability. She tested at a very low IQ throughout her life, yet was repeatedly denied OPWDD services. After a period of detention on Rikers, she was eventually accepted for OPWDD services after the intervention of her criminal defense team and NYLPI, however, not without an extensive gap of time when she should have been receiving services in the community and building skills to live independently.

### Further Examples of Reasonable Accommodations

DOC and the City of New York have an obligation to accommodate all people within their custody and care who have disabilities. There are numerous people who represent unique categories of disability within the DOC system, who require, and are legally entitled to, individualized accommodations for their disabilities. The following is a non-exhaustive list of the reasonable accommodations DOC is required to provide for the types of disabilities represented on Rikers Island.

DOC is required to provide interpreter service and auxiliary aides for people who are Deaf, yet DOC routinely fails to do so, including during medical visits and meetings with counselors. Moreover, people who are Deaf are punished for using sign language.

DOC is required to produce notices, law library documents, and other written materials in large print or other alternative formats for people who are blind or have other visual impairments.

Inmates with diabetes must be able to perform insulin tests.

Persons with mental health disabilities must be provided access to their medications.

### Moving Forward

July 2018 will mark the 28th anniversary of the Americans with Disabilities Act. Members of New York City's various and diverse disability communities deserve and demand full and equal access, and a seat at the table to ensure that any and all remedies reflect their community's needs. An impactful tenet of the Disability Rights Movement is "nothing about us without us." As advocates, we carry this tenet with us, and encourage New York City agencies and the City Council to do the same, and move forward to a New York City without a Rikers Island that has long discriminated, not only against its inmates with disabilities, but also against visitors with disabilities and employees with disabilities. Ten years to close Rikers is much too long; these changes must happen *now*.

We recommend that the City take this opportunity to overhaul not only the buildings, not only the location, but also the systems that discriminate against people with disabilities. To that end, NYLPI makes the following recommendations, and stands willing to assist in their implementation:

- 1) Ensure that any facilities that are being built, renovated, or put to use transitionally are accessible to people with disabilities, including toilets, showers, dining halls, libraries, and all other areas used by individuals in DOC custody;
- 2) Develop evaluative criteria, using best practices, to identify people with developmental or intellectual disabilities at intake;

- 3) Develop a system to increase appropriate coordination between OPWDD and DOC, both while people are held by DOC and during discharge planning;
- 4) Create a system where people who have developmental or intellectual disabilities are not held in DOC facilities, but rather, if necessary, facilities where they can receive appropriate disability-related services;
- 5) Create a system whereby reasonable accommodations requests are reviewed and receive timely responses; and
- 6) Create a system of oversight for the treatment of people who have disabilities in DOC custody.

NYLPI joins our legal services colleagues, the community, and JustLeadershipUSA in imploring New York City to “Close Rikers. Build communities.”

Thank you for considering NYLPI’s recommendations.