



**Statement of the Office of the Public Advocate
Board of Correction Meeting on May 12, 2015**

The CAPA Process Should Begin Now

I would like to take a moment to address the *processes* of the Board of Correction. The New York City Charter vests the New York City Board of Correction (BOC) with the obligation to promulgate rules. We have petitioned the Board to promulgate rules that would better protect vulnerable inmates from sexual harassment and abuse.

A “yes” vote today on our Petition would merely have started the City Administrative Procedures Act (CAPA) process – a process by which the community, experts, advocates, affected people, and agencies would have the opportunity to present information for this Board to consider. Hearings could have been scheduled and fact gathering could have commenced. On behalf of the Public Advocate, Letitia James, I urge you to get started on that process now, and vote “yes” at your next Board meeting.

People are Being Harmed While We Wait

The Department of Health and Mental Hygiene (DOHMH) has reported to us that there were 116 acts of sexual abuse reported to a medical provider in calendar year 2014. That does not include acts that may not have been reported to medical. We have no information about what became of any of those complaints, nor do we know how many were investigated, nor the outcomes. The Department of Correction (DOC) has refused to provide our office with data on any allegations DOC has received, or anything DOC’s Investigative Division has done to investigate complaints, or any information on rates of substantiation. DOC and DOHMH must share information with each other in order to ensure that the inmates are protected and that oversight mechanisms improve. DOC may not ignore requests for data from this office. The Board must be concerned with the lack of DOC transparency around this issue, and the serious harm that inmates report to their health providers.

The City Charter Mandates that the Board Issue Rules to Protect Inmates

The City Charter makes clear that “[t]he board shall establish minimum standards for the care, custody, correction, treatment, supervision, and discipline of all persons held or confined under the jurisdiction of the department...” City Charter Chapter 25 § 626 (e). There is no doubt that the City Charter obliges this Board to make rules that protect inmates from sexual harassment, abuse, and assault. In fact, the federal Prison Rape

Elimination Act (PREA) imposes very similar oversight mechanisms – they just aren't easily enforceable in our city jails. That is why the Board must engage in rulemaking.

During the rule-making process, the Board can control the scope of the rules it considers, and can solicit opinions from all interested parties and experts. The failure to vote "yes" to commence that process today is disappointing, and I urge the Board to put this up for a vote at its next meeting.