

Via electronic mail

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NYC TGNCNBI Task Force Demands Governor Hochul & Mayor de Blasio Stop Transfers of Women / TGNCNBI People to DOCCS

To the offices of Governor Hochul, Attorney General James, Mayor de Blasio, Council Members Rosenthal and Powers, and to the Mayor's Office of Criminal Justice:

We are the majority of non-governmental members of the Task Force commissioned by the City Council of New York to review and advise the New York City Department of Correction (DOC) on policies and practices related to transgender, gender non-conforming, non-binary, and intersex (TGNCNBI) people in custody.¹ Given our legal authority and responsibility to advise on issues impacting TGNCNBI people in custody, we demand that Governor Hochul and Mayor de Blasio immediately stop their proposed plan to transfer women and TGNCNBI people from Rikers Island to the New York State Department of Corrections and Community Supervision (DOCCS) prisons in Bedford Hills, New York. We also demand that the Governor and Mayor's offices immediately consult with advocates and directly impacted communities to discuss community-informed solutions to address the multiple and historic concerns on Rikers Island.

Issues on Rikers Island Have Too Long Been Ignored

The issues that have been brought to light in recent weeks have been a concern for community advocates, public defenders, incarcerated individuals and their families for years. We have understood the severity of this crisis for a long time - even decades - and have worked tirelessly over the years to bring awareness to these issues and concerns – both by many of us in our individual capacities and together since the establishment of this City-commissioned body in 2019. We are acutely aware of the real-life consequences of decades of inaction in the face of the ongoing crisis. Indeed, our Task Force began out of the completely preventable and horrifically tragic death of Layleen Extravaganga Polanco at the Rose M. Singer Center (RMSC) in June 2019.

We recognize this crisis and know it intimately. However, transferring women and TGNCNBI people off of Rikers Island and into the custody of a wholly different entity, DOCCS, is simply not an acceptable solution. This decision is ill-advised and lacks the expertise of advocates and those most directly impacted by carceral systems. Of additional concern, we were informed that the

¹ See NYC Local Law 2019/145.

Governor's office directed DOC to not discuss this hasty decision with this Task Force. The decision to move people from RMSC to DOCCS custody blindsided this task force, comprised of TGNCNBI people and cisgender allies, including many of us who have either survived incarceration and/or spend significant time within DOC working with incarcerated TGNCNBI people. We are legal and cultural experts and this decision sidelines our legal authority and responsibility to advise DOC.

Action is Required Now, But it Must be Decarceration

This "temporary" band-aid does nothing helpful to the people in custody currently suffering in this time of crisis. It merely transfers one set of harms experienced by a vulnerable population to another, and in fact it exacerbates them. The lack of centering of incarcerated peoples and their loved ones in this conversation and the lack of outreach to our Task Force and similar stakeholders - such as the Youth Advisory Board and the Defense Bar - makes this move appear to be too hasty, too ill-considered, and solidifies a persistent pattern of disregarding the insight, expertise, and leadership of people with lived experience of the horrors of incarceration. Even if undertaken with the best of intentions, this does nothing to address the actual root causes of the issues on Rikers Island itself which have manifested for decades.

The only viable solution is for Governor Hochul to cease using the Rikers Island crisis for political leverage and, instead, work with all branches of City government, community advocates, and organizations led by and for incarcerated peoples to immediately release all vulnerable populations from jail and prison custody. The Governor and City government have enormous powers to allow for work release, medical release, and other forms of decarceration and we are happy to delineate these routes in a meeting.

Solutions Must Not Be at the Expense of the Most Vulnerable

This move will severely impact TGNCNBI people, any non-citizen, and anyone with serious medical and mental health concerns. With one person dying in New York State Prisons every three days², these vulnerable lives are quite literally on the line. Worse, of the 245 detained people DOC has identified to be transferred, 221 are being held pre-trial. People who are incarcerated pre-trial have different needs, such as greater access to attorney visits and ability to review discovery, both digitally and in person. Bedford Hills was not designed to meet these needs. Bedford Hills is 40 miles away from the City where their loved ones, defense attorneys, and various service providers reside.³

² Melissa Tanis and Cameron Rasmussen "New York State's New Death Penalty: The Death Toll of Mass Incarceration in a Post Execution Era" *Columbia University Center for Justice*, October 2021 at <https://centerforjustice.columbia.edu/sites/default/files/content/New%20York's%20New%20Death%20Penalty%20Report.pdf>.

³ *Id.*

This proposed move is allegedly being taken to address what has been referred to as a “staffing crisis” on Rikers Island.⁴ Yet it inflicts enormous harm on vulnerable people who are wholly without fault, as if women and TGNCNBI people should suffer disproportionate harm as a solution to decades of mismanagement and failure to respond to the growing crisis. Individuals held at RMSC are not responsible for and should not be harmed because of DOC’s own crisis.

Governor Hochul cannot be applauded for signing the Less Is More Act while at the same time working to place more people in state custody. It is unacceptable and unconscionable that this proposed solution is to impose a new set of harms on vulnerable populations rather than taking evidence-based measures towards release.

This body believes in decarceration and is committed to ending systemic pipelines that lead vulnerable communities to imprisonment in the first place. We cannot support the proposed move from RSMC to DOCCS knowing that it was other facilities on Rikers, such as OBCC and AMKC, that were most impacted by issues of overcrowding and staff shortages. Ironically, in suggesting this action Governor Hochul and Mayor de Blasio are decimating one of the least dysfunctional jails they oversee. It is therefore simply unjustifiable to target women and TGNCNBI people in the City and State's attempt to get a handle on the crisis.

Women and TGNCNBI people, especially non-citizens and transgender women of color, are already enormously vulnerable populations in any carceral setting. Placing these populations in the custody and control of the State, under DOCCS, increases their risk and vulnerability. Though we acknowledge that DOC’s standards are overly carceral and must be overhauled - and we have spent almost two years as a Task Force working on this very issue - they are significantly safer standards than those used within DOCCS. While decarceration must always be the goal, even staying within DOC custody is safer for these populations than any move to DOCCS. DOCCS is known to coordinate directly with Immigration Customs and Enforcement (ICE); to limit incarcerated individuals access to loved ones; to not allow for any form of video conferencing; to be wholly unable to meet Constitutional standards for right to counsel; for providing inconsistent medical care; and for not having the same standards for discipline and education as DOC.

As just one specific example, we have worked with DOC in the development of forthcoming policies on the treatment and placement of gender non-conforming and non-binary peoples - populations that DOCCS simply **does not recognize** in any public-facing directives or standards.

Women and TGNCNBI people housed at Rikers Island should not be used as pawns. Their safety, however minimal in any jail setting, should not be jeopardized due to staffing and crowding issues they did not create, and are not responsible for exacerbating.

Conclusion

⁴ We note that not everyone believes that this framing of the issue is, in fact, the actual issue: Abraham, Roshan “The Real Reason Behind the Crisis at Rikers Island” *Slate*, 29 September 2021 at: <https://slate.com/news-and-politics/2021/09/rikers-island-is-in-crisis-its-not-caused-by-understaffing.html>.

We write to demand Governor Hercul and Mayor de Blasio immediately stop this proposed move of women and TGNCNBI people off of Rikers Island to Bedford Hills;

We demand that the Governor work with the Mayor and community advocates and organizations to immediately release all vulnerable populations from DOC custody; and

We demand that Mayor de Blasio follow through on his commitment to ending solitary confinement **immediately.**

Additionally, we request New York City Councilmembers Helen Rosenthal (as the founder of this Task Force) and Keith Powers (as Chair of the Criminal Justice Committee) and New York State Attorney General Letisha James, respectively, call emergency public hearings to investigate the nature and timeline of this decision, particularly the lack of consultation with stakeholders and an allegation that the DOC was advised by the Governor's Office to not communicate with this City-commissioned Task Force with the legal authority on this specific issue of TGNCNBI people in custody.

Sincerely,

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