

## **Statement from the NYC Board of Correction Regarding the NYC Department of Correction’s Public Response to the Board’s Heat Mitigation Report**

The New York City Board of Correction (BOC) appreciates the Department of Correction’s (DOC) response to our 2024 Heat Mitigation Report. Below, we address points raised in DOC’s response, supported by citations from both our report and DOC’s statements.

### ***BOC Authority***

**DOC Statement:** “It is also worth noting that there is no mention of the BOC Minimum Standards in this report. Measuring Departmental compliance with the report’s recommendations in the absence of the Minimum Standards is subjective and unproductive” (DOC Response, pg. 1).

**BOC Response:** BOC’s authority to evaluate DOC’s performance stems directly from the New York City Charter, not solely the Minimum Standards. As stated in our report: “Pursuant to §§626(c) and (h) of the New York City Charter, the New York City Board of Correction assessed the performance of the New York City Department of Correction’s heat mitigation plan...” (BOC Report, pg. 2). Evaluating departmental performance is fundamental to our mandate and informs potential future additions to the Minimum Standards, ensuring they evolve to address emerging challenges.

### ***Subjectivity of Physical Discomfort***

**DOC Statement:** “The second finding of ‘unaddressed physical discomfort’ is subjective and problematic...” (DOC Response, pg. 1).

**BOC Response:** The discomfort reported by persons in custody (PIC) and correctional officers (COs) is well-documented through our rigorous mixed-methods approach. Both quantitative and qualitative data highlight the following systemic issues:

- “...indoor temperatures in several non-air-conditioned housing units frequently exceeded safe levels, particularly in living spaces, where fans alone were insufficient to maintain comfort. These conditions were especially challenging in facilities like OBCC and RNDC, which recorded temperatures above 90°F (Table 6)” (BOC Report, pg. 9).
- PIC stated “We need AC man, it’s so hot, I don’t want to do anything” and “They treat us like shit, and they wonder why we fight, argue, and become disruptive” (BOC Report, pg. 12).
- COs questioned the efficacy of using fans to mitigate heat stating, “What’s the point of fans if they don’t work, or worse, only blow hot air?” and concluding “We need Central AC. It’s so hot in the bubble and on the floor” (BOC Report, pg. 12).

Unlike individuals in the community, PIC cannot move to cooler environments. Similarly, COs must remain on shift until relieved. During its interviews, BOC learned from some COs that, at the time of their interview, they had already been on duty for 15 or 16 hours (BOC Report, pg. 13). DOC’s dismissal of this lived experience as “subjective” overlooks the daily reality of PIC and COs during the summer months.

### ***Air Conditioning***

**DOC Statement:** “At the time of this report, 85% of housing areas that are currently in use to house persons in custody are air-conditioned” (DOC Response, pg. 2).

**BOC Response:** We acknowledge this progress in the report, stating “According to DOC, their efforts include expanding air-conditioned and ventilated housing capacity, increasing the number of air-conditioned beds 58.0% from 6,290 in 2021 to 9,941 in 2024. These numbers are baselined to include currently closed facilities. In 2024, only 6,355 air-conditioned beds were in open facilities, representing 84.8% of DOC’s total bed capacity of 7,490 at full occupancy” (BOC Report, pg. 5). However, we also found that significant challenges remain:

- Table 3 on pg. 8 of the BOC Report indicates that the daily jail population ranged from 6,306 on May 1, 2024 to 6,466 on September 1, 2024 indicating that there were not nearly enough air-conditioned beds for everyone.
- The underutilization of air-conditioned beds in RMSC is concerning: “The 1,594 air-conditioned beds at RMSC, including RESH, are underutilized as the combined population is approximately one-third the total capacity of air-conditioned beds” (BOC Report, pg. 5). While we acknowledge the challenges involved in housing classifications and allocations, we encourage DOC to use its data to maximize the number of PIC housed in air-conditioned areas while maintaining the separation of male and female populations.

### ***Real-Time Temperature Tracking***

**DOC Statement:** “Recommendation 2b Implement real-time temperature tracking. This recommendation is unclear, and the Department is not aware of what ‘information triggered at the individual cell level’ as referred to” (DOC Response, pg. 2).

**BOC Response:** Our recommendation is explicit: “DOC should transition out of the practice of keeping paper logbooks and develop an electronic log system. The electronic system should capture information triggered at the individual cell level. Until such a system is implemented, Tour Commanders should articulate an action plan to regularly audit logbooks against Genetec video footage and Watch Tour data at unpredictable times to ensure that rounds are taking place as required and to detect incorrect entries.” (BOC Report, pg. 2). Implementing this process will ensure that temperatures are taken in housing (at the individual cell level) and common areas daily, as recommended in 2a.

### ***Track and Analyze Incidents Related to Heat Exposure***

**DOC Statement:** “The Department cannot evaluate if a person in custody is experiencing a heat-related medical issue. Correctional Health Services is responsible for this work.”

**BOC Response:** DOC is not expected to medically evaluate PIC. However, DOC should be proactive in tracking referrals to Correctional Health Services *when PIC verbalize that they require medical attention because of the high temperature where they are located*. In addition, DOC should actively use this data to deploy additional cooling measures.

### ***On-demand Hydration Stations***

**DOC Statement:** Regarding the third recommendation, “The purpose of this recommendation is unclear given the report’s first Key Finding of the Department’s 100% compliance with ice and fan provision” (DOC Response, pg. 2).

**BOC Response:** Compliance does not equate to adequacy. Our recommendation for “on-demand hydration stations” addresses recurring issues such as insufficient and inconsistent ice distribution:

- “In four instances, PIC and COs corroborated that ice was only delivered in the morning the previous day and that ice had to last all day despite the heat. In one facility, the ice machine was broken and correctional staff were required to get ice for each housing area from another facility. One male PIC started complaining halfway through the interview about the heat conditions and ‘the so-called leadership’. Specifically, he stated ‘we should be getting ice and cold water daily regardless of the temperature, so we don’t get sick or hot’” (BOC Report, pg. 12).

### ***Documentation of Readiness***

**DOC Statement:** “In DOC Efforts, the Board states that the Department did not provide supporting documentation to demonstrate readiness for warm conditions. The Department provided documentation to demonstrate that each and every facility distributed summer clothing to the population ahead of the summer months.” (DOC Response, pg. 3).

**BOC Response:** This is incorrect.

- We state in our report that “DOC also stated that it completed pre-summer equipment checks to ensure readiness for warmer conditions, though supporting documentation was not provided for these efforts” (BOC Report, pg. 5). DOC did not provide documentation, such as logbook entries or inventory logs, showing that they completed pre-summer equipment checks.
- There also was insufficient evidence to support DOC’s claim that “each and every facility distributed summer clothing to the population ahead of summer months.” DOC’s own documentation shows that at least one facility did not receive summer clothing, and that clothing distribution occurred during summer (not prior to summer) in other facilities. The lack of summer clothing was also noted in BOC’s interviews with PIC.

**DOC Statement:** “It remains unclear to the Department what further type of documentation the Board is looking for...” (DOC Response, pg. 3).

**BOC Response:** In our fourth recommendation, we encourage DOC to electronically document pre-summer equipment checks and clothing distribution. Specifically, our recommendation is that DOC “maintain an electronic inventory of equipment critical to cooling measures” and “electronically document distribution of appropriate summer clothing” (BOC Report, pg. 3).

### ***Borough-Based Jails (BBJs)***

**DOC Statement:** “It is unclear how the Board’s recommendations in this report will be beneficial as they relate to the BBJs as the BBJs will be highly climate controlled” (DOC Response, pg. 3).

**BOC Response:** While BBJs will feature advanced climate control, our report emphasizes it is crucial to address the immediate needs of individuals in current facilities rather than delay these improvements in anticipation of the BBJs. This is why we set 2025 and 2026 deadlines for implementing our first recommendation to improve heat mitigation efforts.

## ***Warm Weather Protocol***

**DOC Statement:** “In DOC Efforts, the authors state that BOC received the Department’s warm-weather protocol on December 3, 2024. It is unfortunate that the Board reviewed the protocol in December, given it is posted on the Department’s website ... every year in May” (DOC Response, pg. 2).

**BOC Response:** BOC received additional information on pre-summer efforts from DOC on December 3, 2024. BOC acknowledges in the report that DOC’s annual warm-weather protocol was activated in May. Indeed, over the summer months, BOC and DOC leadership were in close communication and worked together to lower the temperature threshold from 85°F to 80°F in the warm-weather protocol.

## ***Historical Context***

**DOC Statement:** “In the Introduction (page 4), the Board references the death of Jerome Murdough. The death of Mr. Murdough was a tragedy which took place in the winter months. As stated in the Introduction, the Board’s report is focused on the summer heat. Inclusion of this death in this report conflates separate issues and is unrelated to the report topic.” (DOC Response, pg. 3).

**BOC Response:** Mr. Murdough was a 56-year-old homeless veteran with a history of mental illness who was housed in a mental health observation unit on Rikers Island. Temperatures in his cell reportedly exceeded 100°F due to a malfunctioning radiator. His death was ruled heat-related despite occurring in the winter. BOC discusses this incident in its background section to provide additional context for readers on the severe risks of extreme heat for PIC (BOC Report, pg. 4).

## **Conclusion**

BOC’s findings and recommendations aim to ensure the health and safety of individuals living and working in DOC facilities.

These findings should not only guide operational improvements but also be leveraged to support future budget requests for comprehensive heat mitigation measures. We strongly emphasize the urgency of implementing these changes now, rather than deferring them until the Borough-Based Jails become operational.

Transparency and collaboration are paramount as we move toward a more humane correctional system. We encourage DOC to consider our report’s recommendations as opportunities for meaningful improvement.