

November 13, 2018

The New York City Board of Correction
1 Centre Street
Room 2213
New York, N.Y. 10007

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Dear Members of the Board of Correction:

Regretfully I was unable to attend this morning's meeting as I am preparing for a meeting in the SDNY ref my Section 1983 civil rights lawsuit against the City of New York.¹ I watched the events this morning as always with great interest particularly Chair Cephas' comments regarding the NYC Department of Correction's lack of compliance with the Board's latest resolution regarding PREA² and have seven questions I would like the NYC BOC to seriously consider and respond directly to me about:

" We were going to address PREA today—we're not going to do that today; Commissioner Brann was not able to attend today's meeting and has requested that we table the discussion until January which we are certainly doing.

In October the board passed a resolution regarding Board Standards regarding sexual violence. The Board found the Dept. is out of compliance with portions of Board Standards 5-30 and 5-40. The Board recommended actions for the Dept. to take in order to cure these violations including submission of a corrective action plan by November 8, 2018. The Dept. did not supply that plan nor did they provide any additional information about their efforts to come into compliance w 5-30 and 5-40. As noted earlier Commissioner Brann is not here today and we will take up the discussion of a Corrective Action Plan in January of 2019."³

- 1) If the Commissioner, nor her PREA Deputy Commissioner, Selena Townsend, were not able to attend today's hearing what excuse did the department for their absence offer?
- 2) What excuse was offered by the NYC DOC for the disregard of the Board's requirement that a Corrective Action Plan be submitted by November 8, 2018?
- 3) Why did the Board choose to not take up a vote to find the Department in violation of NYC Department of Corrections Standards 5-30 and 5-40?

¹ Trumpian? De Blasio administration blocks activist on Twitter until court ruling: New York Daily News: August 26, 2018: Reuven Blau:

² "By November 8, 2018, submit a written corrective action plan to improve the quality of these investigations and the quality of 5-40 data and assessment reporting. The corrective action plan shall include timelines and steps for implementing the eight (8) recommendations set forth in BOC's audit report and any other action steps needed to achieve compliance with Minimum Standard 5-30, and 5-40. The corrective action plan shall also establish a timeline for implementing and using a computerized case management system for sexual abuse and harassment claims within the next twelve (12) months."

https://www1.nyc.gov/assets/boc/downloads/pdf/october_2018_resolution_investigations_10_8_18.pdf

³ Chair Derrick Cephas: NYC Board of Correction: November 13, 2018: <https://www.youtube.com/watch?v=j1diDJeNXDE>: Timestamp ~12:00 minutes in or 2:37:00 Reverse time stamp as posted on YouTube by NYCBOC.

- 4) Why doesn't the Board call for a special hearing in December, 2018 to force the department to answer and/or to call a vote by the Board to find that the NYC Department of Correction be found in violation of these standards at minimum?

There are dozens of other standards, as the Board is well aware, that the department has yet to fulfill implementation of or to provide a revised update as to expected implementation. At the minimum the department should be held in violation of these single two standards that the Board specifically has addressed in its October 2018 resolution. We have been standing here for years saying the department is in violation and should be found in violation of these standards. This should come as no surprise to the department.

- 5) Why is DOC Brass allowed to hide and not answer for this egregious lack of responsibility? Where is the oversight?

STAFFING PLAN: We noticed just last week that the department has begun posting want ads for PREA positions that should have been filled years ago. One help-wanted ad for DOC PREA Director was posted only seven days ago yet the DOC has had a blank check to fill these posts for almost two years.⁴ This job posted seven days ago as of today, November 13, 2018, for a PREA Investigator⁵ only pays ~55k per year.

- 6) This seems like an exceptionally low pay for an investigator. If this is the reason for the understaffing should we address this?

The BOC Audit report also reveals a startling lack of interviews of alleged staff perpetrators with regard to PREA investigators.⁶ In an appendix to the report the BOC auditor states that there was a reason provided to the BOC for lack of interviews but those reasons are not stated clearly in the report.

- 7) Could we have some transparency here please? If the issue is lack of union advocates to accompany staff members accused of sexual violence and/or harassment on their interviews with investigators the first step is to document this problem: not to obfuscate it. I would ask the Board reports be more helpful in this regard in the future.

Thank you for considering my comments and questions and for your kind, thoughtful and timely reply.

⁴ <https://www.indeed.com/q-Department-of-Correction-l-Queens,-NY-jobs.html?vjk=eaa9b44965ab9a1d>

⁵ <https://www.indeed.com/q-Department-of-Correction-l-Queens,-NY-jobs.html?vjk=ca40e161cddfb74f>

⁶ "Alleged perpetrators were interviewed in 55% (n=23) of the investigations audited...In one case, the investigator notes that the staff member against whom the allegation has been made was out sick. There is no indication as to whether any subsequent attempts were made to interview this staff member upon return to work. In another case the investigator records that attempts were made to contact the alleged perpetrator but that the staff member did not respond. In two cases it was recorded that the alleged staff perpetrator was not identified and in one case the victim withdrew their allegation when interviewed by investigators. In the remaining five cases involving allegations against staff, investigators appear to have relied upon reviewing camera footage of events and/ or statements by staff instead of conducting interviews." *Audit Report on the New York City Department of Correction's Sexual Assault and Sexual Harassment (PREA) Closing Reports The New York City Board of Correction*: September 2018: pp. 7-8.