

**Testimony of Courtney L. Colwell, On Behalf of the New York
Civil Liberties Union Before the New York City Board of
Correction Regarding the Public Meeting Frequency
Resolution**

March 14, 2023



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The New York Civil Liberties Union (NYCLU) respectfully submits the following testimony regarding the March 14, 2023 Resolution to decrease the number of annual Board of Correction meetings. The NYCLU is the New York affiliate of the American Civil Liberties Union. It is a not-for-profit, non-partisan organization with eight offices throughout the state and more than 180,000 members and supporters. The NYCLU’s mission is to promote and protect the fundamental rights, principles, and values embodied in the Bill of Rights of the U.S. Constitution and the New York Constitution.

For decades now, the Board of Correction has provided the bare minimum in supplying transparency, accountability, and oversight of New York City Jails. Public meetings are a core component of the Board’s work. All too often, “[incarcerated persons] are shut away—out of sight, out of mind.”¹ But frequent open meetings give incarcerated New Yorkers and their loved ones a chance to have their voices heard. In turn, these meetings play a critical role in educating the public and the Board itself on current issues in New York City Jails. The information relayed in these meetings, however, can only be as current as the meeting schedule allows.

By decreasing the number of annual meetings to six meetings per year,² the Board’s Public Meeting Frequency Resolution would significantly hinder the free-flowing exchange of current information. Although the Board suggests that this Resolution is needed to “achieve enhanced results more efficiently,”³ any alleged efficiency gains would come at a great cost to incarcerated New Yorkers and to the public. To that end, the NYLCU strongly urges this Board to reject the March 14, 2023 Public Meeting Frequency Resolution.

¹ *Davis v. Ayala*, 576 U.S. 257, 288 (2015).

² *Resolution for Board Vote*, BOARD OF CORRECTION (Feb. 14, 2023), https://www.nyc.gov/assets/boc/downloads/pdf/Meetings/2023/february/Resolution-Public-Meeting-Frequency_draft.pdf.

³ *Id.*

The NYCLU opposes the Board’s Resolution for three fundamental reasons.

First, greater transparency is needed now more than ever. New York City jails are at a pivotal moment: Death tolls have risen dramatically over the past few years,⁴ violence has increased,⁵ and drug overdoses continue to plague Rikers Island.⁶ Indeed, 2022 was the deadliest year on Rikers Island in nearly a decade.⁷ And just last month, Marvin Pines tragically died under DOC care, marking the first death on Rikers Island of 2023.⁸ If trends continue the way they have, his death will likely not be the last.



The *Nunez* Federal Monitor reports suggest that New York City Jails need ever present oversight. They report that “the Department has remained trapped in a state of persistent dysfunction.”⁹ The Monitoring Team continues to be “concerned about the prevalence of poor practice, avoidable, unnecessary and excessive uses of force.”¹⁰ And they note that “the current state of affairs and potential risk of harm is threatening and even traumatic for some individuals in custody.”¹¹

Yet despite these reprehensible problems, the Department of Correction has continuously sought to shirk oversight. This past year, the Commissioner inexplicably skipped two Board of Correction meetings.¹²

⁴ Ransom & Bromwich, *Tracking the Deaths in New York City’s Jail System*, N.Y. TIMES (Feb. 4, 2023), <https://www.nytimes.com/article/rikers-deaths-jail.html#:~:text=The%20Crisis%20on%20Rikers%20Island&text=Contraband%20Problem%3A%20Rikers%2C%20which%20had, days%20after%20they%20made%20bail.>

⁵ Blau, *Rikers Report Calls 2021 ‘Most Dangerous Year’ Amid Escalating Jailhouse Violence*, THE CITY (Dec. 6, 2021), <https://www.thecity.nyc/2021/12/6/22821629/rikers-report-calls-2021-most-dangerous-year-amid-escalating-jailhouse-violence>.

⁶ Justin, *Prison overdoses in New York outpace rest of nation*, TIMES UNION (Dec. 13, 2022), <https://www.timesunion.com/state/article/Prison-overdoses-in-New-York-are-twice-as-likely-17651341.php>.

⁷ Ransom & Bromwich *supra* note 4.

⁸ Bocanegra & Max, *Rikers reports first death in 2023 of person in custody, after deadliest year in quarter century*, THE GOTHAMIST (Feb. 4, 2023), <https://gothamist.com/news/rikers-reports-first-death-in-2023-of-person-in-custody-after-deadliest-year-in-quarter-century>.

⁹ Nunez Monitoring Team, *Second Status Report on DOC’s Action Plan by the Nunez Independent Monitor* (Oct. 28, 2022), https://storage.courtlistener.com/recap/gov.uscourts.nysd.383754/gov.uscourts.nysd.383754.472.0_1.pdf at 56.

¹⁰ *Id.* at 64.

¹¹ *Id.* at 85.

¹² *New York City Board of Correction October 18, 2022 Public Meeting Minutes*, BOARD OF CORRECTION (Oct. 18, 2022), <https://www.nyc.gov/assets/boc/downloads/pdf/Meetings/2022/October/2022.10.18-Minutes-Final.pdf>.



Moreover, the Department has repeatedly gone around the Board to deviate from the minimum standards in place by seeking executive orders from the Mayor.¹³ And just last month, the Department of Correction revoked the Board of Correction’s staff access “to independently view Genetec, the Body worn Camera System, and handheld video at any time.”¹⁴ DOC also “forbade the recording and use of such video in [the Board’s] work.”¹⁵ With this push-back from the Department of Correction, the Board should be applying more pressure—not less. The NYCLU urges the Board both to make continuous requests for these videos and to continue meeting with increased frequency, sending a message to the Department that the Board will be strongly applying its oversight ability in 2023.

Second, this Resolution constitutes a drastic departure from the Board’s past policies and from national trends. Although a reduction of three meetings per year may not seem like a radical change, from both a historical perspective and a national perspective, this reduction is actually quite meaningful.

Data on meeting frequency is available beginning in the 1970’s.¹⁶ And throughout this roughly 50-year period, the Board of Correction met on average 9.31 times a year.¹⁷ The number of times the Board met 6 times a year or below constitutes just one-quarter of all years since 1970.¹⁸ And in many years, the board met with astounding frequency. Indeed, in the year 1974 alone, the board met 22 times to conduct oversight over New York City Jails.¹⁹

Even in more recent years, frequent meetings have been the norm. From 2019-2021, the Board met on average, 12.33 times a year.²⁰ And this past year in 2022 alone, the Board held public meetings on 11 instances.²¹ Dropping the number of meetings to six, then, would cut meeting times nearly in half from the number of meetings held in 2021.

¹³ Kaye, *BOC slams mayor’s office for skirting jail rules with executive orders*, QUEENS DAILY EAGLE (Jan. 22, 2022), <https://queenseagle.com/all/boc-slams-mayors-office-for-skirting-jail-rules-with-executive-orders>.

¹⁴ *Statement on Loss Of Access to Jail Video*, BOARD OF CORRECTION (Jan. 18, 2023), <https://www.nyc.gov/assets/boc/downloads/pdf/News/Statement-on-Video-Access-1.18.23.pdf>.

¹⁵ *Id.*

¹⁶ For a list of all meeting minutes see, *Pre-2019 Meetings*, BOARD OF CORRECTION, <https://www.nyc.gov/site/boc/meetings/pre-2019-meetings.page>.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*



This Board Resolution also runs counter to national trends. Indeed, across the country there is increasing awareness that more—not less—oversight is needed over our nation’s prisons and jails.²²

The legal scholar Michele Deitch has chronicled this rise in oversight. As she notes, “the national landscape for independent correctional oversight is improving, with greater awareness of this issue, more calls for the creation of oversight mechanisms, more concrete efforts to establish these entities, and the successful implementation of several new oversight bodies.”²³

And these new oversight bodies, alluded to by Deitch, meet with stronger frequency than this Board does. Indeed, the oversight body of jails in Delaware County, PA holds 12 meetings a year²⁴ and the LA jails oversight body similarly hosts meetings on a monthly basis.²⁵ Given that New York City jails are more dysfunctional than both the former and the latter, this Board should be meeting at least as often as their national counterparts.

Finally, because the New York State Commission of Correction (SCOC) meetings are so inadequate, BOC meetings are the only avenue available for meaningful public involvement. To be certain, the Board of Correction is not the only oversight body with control over New York City Jails. The State Commission of Correction also meets monthly to discuss “matters related to local and state correction facilities.”²⁶ But for three reasons, the SCOC does not provide an acceptable alternative for the public to air their grievances about New York City Jails.

²² Eisen & Nahra, *The Landscape of Recent State and County Correctional Oversight Efforts*, BRENNAN CTR. FOR JUST. (March 15, 2022),

<https://www.brennancenter.org/our-work/research-reports/landscape-recent-state-and-county-correctional-oversight-efforts>.

²³ Deitch, *But Who Oversees the Overseers?: The Status of Prison and Jail Oversight in the United States*, 47 AM. J. CRIM. L. 207, 215 (2022).

²⁴ See Jail Oversight Board and Meeting Schedule, Delaware County Pennsylvania, <https://www.delcopa.gov/prison/job.html>.

²⁵ See Commission Meetings, Civilian Oversight Commission County of Los Angeles, <https://coc.lacounty.gov/meetings/commission-meetings>.

²⁶ About, Commission of Correction, <https://scoc.ny.gov/about.htm>.



First, the SCOC has a long history of failing to fulfill its responsibilities and does not regularly meet its goals when it comes to inspecting local correctional facilities.²⁷

Second, even if it was an adequate body, its attention is divided between far too many facilities of which Rikers Island is just one. Indeed, the Commission oversees all “561 correctional facilities throughout the State including 54 State correctional facilities, four Office of Children and Family Services facilities, 74 local correctional facilities (county jails and New York City facilities), and 429 local lockups.”²⁸ The level of attention that the SCOC can afford New York City Jails, then, is far sparser than the attention the Board of Correction can pay.

Finally, the SCOC meetings present even more limited opportunities for the public to meaningfully engage with the Commission than the Board of Correction meetings do. Nearly all of the SCOC meetings are hidden behind private eye—the last SCOC meeting only included three minutes and twenty-two seconds of content open to the public.²⁹ Moreover, there is no public comment period throughout the meeting, granting concerned New Yorkers no opportunity to have their voices heard.³⁰

In short, the Board of Correction today offers the only real avenue available for the public to meaningful gain and present information on the status of New York City jails. Reducing the number of BOC meetings, then, would fundamentally impede this critical function that solely the Board serves. And although the Board serves many other functions as well, at its core, this Board fundamentally works for the public. Indeed, when it was first established in 1953, the Board was created to be a “citizen watchdog agency,”—one that was explicitly given monitoring power “on behalf of the public.”³¹

At this time, greater transparency is more vital than ever. Nationwide, other states and localities have recognized this fact. And in New York, in particular, with dangerous conditions, violence, and drug overdoses

²⁷ *New York State Commission of Correction: Oversight of Correctional Facilities and Handling of Grievance and Complaints*, OFFICE OF THE NEW YORK STATE COMPTROLLER (2006), <https://web.osc.state.ny.us/audits/allaudits/093008/06s93.pdf>.

²⁸ Buyce et. al, *Facility Oversight and Timeliness of Response to Complaints and Inmate Grievances: State Commission of Correction*, NEW YORK STATE OFFICE OF THE STATE COMPTROLLER (Jan. 2018), <https://www.osc.state.ny.us/files/state-agencies/audits/pdf/sga-2018-17s2.pdf>.

²⁹ Commission of Correction: February 24, 2023 Meeting, NYS Public Safety, <https://youtu.be/9Jyqva5Z1gE>.

³⁰ *Id.*

³¹ *Id.*

rising every day, there is certainly a need for more free-flowing information. Yet the Board's Resolution would significantly hinder the very transparency and public accountability that it was established to create. Far more than 6 meetings are needed to adequately serve its role today: This is no time for an unprecedented historical departure.

For these reasons, the NYCLU strongly urges this board to reject the March 14, 2023 Public Meeting Frequency Resolution.

