

**Testimony of Felicia Henry, Director of Research and Policy
Correctional Association of New York
Joint Public Hearing: The impact of sexual assault in the prison system
Thursday, March 3, 2022**

Hello everyone, my name is Felicia Henry and I am the Director of Research and Policy at the Correctional Association of New York. Thank you to the Senate Standing Committee on Crime Victims, Crime and Corrections, Chair Julia Salazar, and the Senate Standing Committee on Ethics and Internal Governance, Chair Alessandra R. Biaggi, for inviting CANY to participate in this important and necessary hearing.

For more than 175 years, CANY has worked to provide independent oversight of prisons in New York State; promote transparency and accountability; safeguard the human and civil rights of incarcerated people; eliminate harmful practices and policies; and decrease the use of incarceration in New York. We are the only independent organization in NYS to monitor and oversee prisons across the state and report our findings to the legislature and broader public.

CANY's monitoring work, which includes on-site monitoring visits, correspondence with incarcerated people and their families, surveys, and reports from community partners, has revealed pervasive sexual assault and abuse issues within NYS prisons. This testimony will provide a high-level overview of the prevalence of sexual assault and abuse; reveal how poor conditions of confinement create an environment that facilitates sexual assault, including how the violent and punitive institutional culture within prisons shapes experiences of sexual abuse; and point to the lack of transparency and inadequate data reporting practices on the part of the Department of Corrections and Community Supervision (DOCCS) which leave the true prevalence and impact of sexual violence behind bars obscured.

CANY has a long track record of demonstrating the existence of sexual violence in NYS prisons. For example, testimony given by CANY staff¹ over a decade ago details issues with staff sexual abuse, most frequently occurring at prisons for women and many maximum-security facilities for men. The testimony posited that many of the prisons with high rates of staff sexual abuse are institutions with

¹ "Testimony by Jack Beck, Director, Prison Visiting Project The Correctional Association of New York Before the Review Panel on Prison Rape" USDOJ, Office of Justice Programs, April 27, 2011
https://www.ojp.gov/sites/g/files/xyckuh241/files/media/document/testimony_beck.pdf

elevated tension between staff and incarcerated people and an overall a violent prison environment. CANY has consistently published on issues of sexual violence when discussing the conditions and impact of incarceration in NYS.^{2 3 4} A 2006 report⁵ on a monitoring visit to Albion found that “more incarcerated women at Albion expressed concerns about sexual misconduct than women at the other prisons we have visited – not a surprising reality considering that there are more reports about incidents of officer sexual abuse at Albion than at other women’s facilities.” A 2007 report on issues faced by transgender people⁶ within the criminal justice system revealed that transgender people were subjected to high rates of sexual assault and harm, as well as coercive sexual relationships in order to be “protected” from harm because of their gender identity.

Data from our on-site monitoring visits featuring interviews with over 2,000 incarcerated people over the past two years establishes similar findings. In one case that was documented by CANY in 2021, an incarcerated person alleged that he had been sexually assaulted with a baton by several correctional officers, and produced medical reports documenting injuries sustained during the assault. Although he reported that he had been interviewed by the Office of Special Investigations and said that he was immediately transferred from the facility at which the assault took place, he asserted that he had not received any form of recourse for the horrific assault. As a result of the incident, this individual said that he was suffering from trauma was on medication for mental health issues.

The assault that this man described to CANY staff was egregious and extreme; we do not often hear accounts of such severe victimization. But incarcerated individuals and their families report widespread instances of sexual misconduct and assault across the NYS prison system, indicating that these incidents are not confined to specific facilities or merely a few “bad actors.” These reports are often coupled with accounts of a widespread violent and institutional DOCCS culture. Fifteen percent of incarcerated individuals at Taconic Correctional Facility in June 2021 reported that they did not feel safe from being injured, bullied, or threatened in the prison, and almost 40% reported the same at Greene

² “Report on Mental Health Programs and Services at Bedford Hills Correctional Facility” The Correctional Association of New York, September 2007 (CANY report available upon request.)

³ “Report on Conditions of Confinement at Albion Correctional Facility” The Correctional Association of New York, November 2006 (CANY report available upon request)

⁴ “Fact sheet: Women’s Incarceration: The experience in New York’s Prisons” The Correctional Association of New York, 2017, <https://www.correctionalassociation.org/s/2019-Womens-Incarceration-Fact-Sheet.pdf>

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⁶ “Transgender Issues and the Criminal Justice System” Women in Prison Project, The Correctional Association of New York, February 2007 (CANY report available upon request)

Correctional Facility in April 2021. Eighteen percent reported an increase in violence or abuse by staff at Great Meadow Correctional Facility and Greene Correctional Facility since COVID-19 began in June 2021 and April 2021 respectively, and 19% reported the same at Sullivan Correctional Facility in March 2021. Many individuals express their fear of reprisal when reporting sexual assault through official channels (e.g., the grievance system, DOCCS Office of Special Investigation, or the Inspector General) or a despair that nothing ever comes of the complaint. As one incarcerated individual put it, “a CO got questioned by the IG after I complained but I never heard the outcome.” Other individuals described being subject to falsified misbehavior reports or other forms of unofficial discipline when reporting an assault.

The most recent reporting on sexual victimization was published by DOCCS in July 2021,⁷ contains data from 2014-2018, demonstrating a failure on the part of the department to present key information on trends of sexual assault in a timely manner. However, even these outdated figures demonstrate disturbing trends in the rate and nature of sexual assault in prison. Reports of sexual victimization by staff increased between 2014 and 2018, despite a decrease of the prison population from approximately 54,000 people in 2014 to approximately 47,000 people in 2018. Most alarmingly, reported allegations of sexual misconduct and sexual harassment by staff far exceeded reports of sexual misconduct and harassment by other incarcerated individuals in every year from 2014 to 2018. For example, in 2018, there were 511 total allegations of sexual victimization, a rate of 10.4 per 1,000 incarcerated individuals. Of those 511 allegations, 399 or 78% alleged sexual abuse by staff.

A 2018 DOCCS PREA report for Bedford Hills⁸ stated that the auditor “had some concerns regarding staff retaliation, opposite gender announcement, some cross gender viewing issues, administration support of the PREA process.” A 2018 DOCCS PREA report for Taconic Correctional Facility⁹ found that DOCCS had not taken appropriate measures to ensure protection for incarcerated

⁷ “Annual Report on Sexual Victimization: An Analysis of 2014-2018 Sexual Abuse and Sexual Harassment Data” New York Department of Corrections and Community Supervision, June 2021. <https://doccs.ny.gov/system/files/documents/2021/06/annual-report-on-sexual-victimization-2014-2018-with-2019-aggregated-data-final.pdf>

⁸ “Prison Rape Elimination Act Audit Report; Bedford Hills Correctional Facility” New York Department of Corrections and Community Supervision, November 21, 2018. <https://doccs.ny.gov/system/files/documents/2019/05/bedford-hills-cf-final-prea-audit-report-11-21-18.pdf>

⁹ “Prison Rape Elimination Act Audit Report; Taconic Correctional Facility” New York Department of Corrections and Community Supervision, November 7, 2018. <https://doccs.ny.gov/system/files/documents/2019/05/taconic-final-prea-audit-report-11-7-18.pdf>

people against sexual abuse through upgrades to the facility and technology. The lack of protection against sexual misconduct and abuse documented in the PREA reports was corroborated during CANY's 2021 monitoring visits to Bedford Hills and Taconic. Thirteen percent of incarcerated individuals at Bedford Hills during a November 2021 visit reported witnessing or experiencing sexual violence within the last year, including several individuals who reported having experienced this violence within a month of the visit. Incarcerated women described an overall pattern of sexual abuse in the facility. One woman reported that "some officers do certain things and it's uncomfortable. They maybe touch you in a way that you do not like." Others noted that the conditions of their confinement, specifically a collective lack of privacy, especially in the shower areas, exacerbated their vulnerability to sexual harassment and assault. Other individuals expressed further vulnerability to sexual assault and harassment because of their gender identity, citing how trans individuals in particular experience gender-based abuse.

CANY's 2020 report "It Reminds Us How We Got Here" highlighted that one of the most salient issues among incarcerated women was the issue of violence, retraumatization, and abuse in prison. Seventy four percent of respondents (n=110) identified that they had witnessed some form of violence or abuse by staff, including physical, sexual, and verbal abuse, while 53% of respondents reported personally having experienced these acts of violence by staff. Multiple respondents reported sexual assault and harassment, rape, and voyeurism—including male officers watching incarcerated individuals while they shower and use the toilet. While many women in prison have extensive histories of sexual abuse, violence, behavioral health issues, and physical health issues that pre-date their incarceration, the abusive dynamics and trauma that they experienced in these situations are often reproduced within prisons themselves. Women with histories of abuse have indicated that experiencing or witnessing subsequent abuse inflicted by correctional officers and staff can often retraumatize them and resurface prior incidences of abuse.

In essence, the longstanding issues of gender-based sexual violence in prisons, specifically prisons designated for women, endure. The National Sexual Assault Hotline (RAINN) states that only 310 of 1,000 sexual assaults in the US will be reported.¹⁰ Our data suggests that the rate of reporting in prison is far lower, in spite of the heightened risk factors and vulnerability of incarcerated people. In

¹⁰ "The Criminal Justice System: Statistics" Rape, Abuse and Incest National Network, <https://www.rainn.org/statistics/criminal-justice-system>

other words, we have yet to understand and reveal the full scope of sexual assault and harm behind bars.

In light of the foregoing, CANY makes the following recommendations, in addition to reiteration all of the recommendations made in the 2020 report, “It Reminds Us How We Got Here”:

- DOCCS should increase the frequency and reliability of reporting on sexual violence, victimization, and assault.
- DOCCS should meaningfully address all deficiencies noted in PREA audit reports.
- The legislature should pass legislation requiring the installation of stationary security cameras at all correctional facilities.
- The legislature should pass legislation expanding the use of body cameras.
- The legislature should ensure that access to camera and audio collected from cameras are accessible to prisoners and their attorneys (i.e., discovery reform in the courts).
- The legislature must fund organizations that provide oversight of the state's prisons and jails to provide for effective oversight.
- The legislature must reverse efforts by the Cuomo administration to limit independent oversight by passing legislation to strengthen civilian monitoring of prisons.