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Transformative Change at Rikers Island and Beyond: The Department of Investigation's Campaign to Clean up the NYC Department of Correction

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Transformative Change at Rikers Island and Beyond:

The Department of Investigation's campaign to clean
up the NYC Department of Correction

INTRODUCTION

Since 2014, Commissioner Mark G. Peters has led the New York City Department of Investigation (DOI) in a wide-ranging campaign to root out fraud, waste, and abuse in the Department of Correction (DOC), focusing primarily on problems in the areas of DOC leadership and the city jails on Rikers Island. This heightened scrutiny came in response to revelations of widespread abuse in New York City's jails—especially on Rikers Island. As a result of DOI's efforts, [over three dozen correction officers and other DOC staff have been arrested since 2014](#), and DOC top leadership has been replaced. [As recently as February 2018](#), DOI reports have shown that these problems are pervasive and deeply rooted in DOC. This brief examines DOI's campaign, with analysis of its successes and some thoughts on what lies ahead.

Due to its history of violence and corruption, Rikers Island has long been a magnet for controversy and criticism. To get a sense of the situation on Rikers before DOI's campaign, consider these headlines:

- [Two Officers Sentenced in Rikers Island Assault Case](#)
- [Bronx crime stats spike over Rikers gang war](#)
- [Rikers Island Struggles With a Surge in Violence and Mental Illness](#)
- [Jail guard admits to sex, drugs at Rikers](#)

Upon taking office in 2014, Commissioner Peters began a thorough campaign of ridding DOC of fraud, waste, and abuse. DOI started from the bottom, with rank-and-file correction officers (COs), and worked its way up the chain of command. By looking first at problematic conduct by COs, and then shifting its focus to the higher-level officials, DOI gained a comprehensive view of both the problems and causes, which enhanced DOI's ability to recommend meaningful solutions.

DETECTING CO MISCONDUCT AND CRIMES

Like all public agencies, the NYC Department of Correction has the responsibility to foster and maintain the public's trust as it conducts its operations. When misconduct happens in our city jails, it is uniquely damaging in a few ways. First, COs and administration officials operate and work in a highly dangerous environment.¹ In such conditions, the safety of both officers and inmates depends on the strict enforcement of and adherence to effective security procedures. On Rikers Island, for example, administration officials have attributed the recent increase in violence in part to [an increase in blades and razors smuggled into the jails](#).

Furthermore, DOC is charged with ensuring the safety of inmates entrusted to its care, many of whom have not yet been tried or convicted of any crime. These inmates constitute one of New York's most vulnerable populations, and it is DOC's duty to protect them.

Moreover, as DOI's investigation recognized, correction officers create a unique danger when they become corrupt. The difficulty is that once a CO crosses the line, even for relatively minor misconduct, the inmate has leverage over the CO and can blackmail the CO into committing more serious crimes. As the adage goes, "in for a penny, in for a pound." For example, a CO may smuggle cigarettes in for an inmate because it seems like a minor offense, but then may be pressured to smuggle illegal drugs the next time, or face exposure for the original rule violation.

¹ Although this brief refers predominately to corrections officers and administration officials, many of the issues addressed also apply to other DOC staff.

In some contexts, it may be difficult to judge misconduct by public officials in morally absolute terms. For one thing, it may sometimes be difficult to pinpoint the victims harmed when an official breaks seemingly minor rules. It is not immediately clear, for example, that anyone is hurt when a civil servant breaks the rules by smoking a cigarette in the stairwell of City Hall. This victimless situation decidedly does not apply to correction officials, however. As DOI has demonstrated through its investigative reports, small infractions can lead to meaningful breakdowns of order and peace in the jails. Because of this, when it comes to CO misconduct, there can be no truly victimless offenses.

DOI has brought cases in a variety of areas, as discussed below, with its early work focusing on misconduct among rank-and-file COs, including smuggling, sexual assault, and excessive use of force.

Cracking Down on Smuggling

Perhaps the most pervasive offense within DOC is contraband smuggling. This crime occurs when a CO sneaks a forbidden object or substance—such as alcohol, drugs, scalpels, or cell phones—into the prison and gives it to an inmate, often in exchange for money or sexual favors. Not only is the presence of contraband detrimental to DOC's need to maintain order, but certain items, such as scalpels, pose a direct threat to the lives of inmates and DOC staff. The widespread nature of this problem, DOI discovered, was due to [inadequate enforcement of security measures at the jail entrances](#). Combing through hundreds of hours of surveillance video, DOI investigators identified a few root causes to the contraband smuggling problem: [understaffed and undertrained security staff, frequent deviations from security procedures, and faulty or outdated detection equipment](#).

Narcotics trafficking within Rikers is not just bad because we've got prisoners taking narcotics. It's bad because it leads to violence. It's bad because it leads to uncontrollable inmates. It's the root cause of a wider set of problems that also need to be dealt with.

Mark G. Peters, DOI Commissioner

Incidents

2014: [A series of DOI integrity tests](#) demonstrated significant security vulnerabilities in six Rikers Island jail facilities. An undercover DOI investigator successfully smuggled in contraband, including narcotics, marijuana, alcohol, and a razor blade, into each of the six facilities. These security breaches were possible due to the shortcomings of existing security procedures and their inadequate implementation. In one instance, the undercover investigator's contraband triggered the metal detector. However, after the undercover investigator assured the CO that he had already emptied his pockets, despite not having done so, the [CO allowed the investigator to proceed without further inspection](#).

February 2017: Rikers Island CO [Devante Graham was arrested for smuggling contraband](#) into the Riker's jail to which he was assigned. Supported by DOP's investigatory work, a K-9 unit team from the DOC Investigation Division stopped and searched Graham, finding a Ziploc bag containing approximately 35 grams of tobacco, hidden in his uniform pants. After searching Graham's vehicle, officers found an additional Ziploc bag containing 25 grams of marijuana, concealed in three bundles of black tape.

August 2017: Rikers Island CO Kevin McKoy [pleaded guilty](#) to receiving bribes, promoting prison contraband, and official misconduct for running a contraband smuggling scheme in one of the Riker's jails. [At the time of his arrest](#), McKoy was carrying 126.4 grams of synthetic marijuana, 10 strips of the prescription opiate suboxone, and seven scalpel blades. Additionally, after searching McKoy's vehicle and home, officers recovered 247 grams of organic marijuana, 101.5 grams of synthetic marijuana, 18 suboxone stripes, nine scalpel blades, half a gram of

cocaine, and 58.4 grams of loose tobacco. McKoy confessed that these items were also going to be smuggled into Rikers jails. DOI's investigation uncovered that McKoy was at the center of a [contraband smuggling conspiracy](#). Rikers inmates would instruct family members and friends to give contraband to McKoy, who would smuggle it in for cash. According to the investigation, McKoy received at least \$10,000 in bribe payments for the smuggling operation.

February 2018: [DOI published another report on security lapses](#) in two DOC localized borough detention facilities—one in Manhattan and one in Brooklyn. This latest report mirrored the 2014 integrity tests and revealed that the vulnerabilities uncovered in 2014 were never addressed by DOC. Notably, the investigation also demonstrated that the issues present at Rikers were equally problematic in smaller, local facilities.

Recommendations

In order to crack down on pervasive contraband smuggling, DOI has made, and has been following up on, security recommendations to DOC, including random searches of uniformed personnel, clear containers for outside food items, frequent rotation of the front gate security staff, random security sweeps of common areas, and the elimination of unnecessary pockets on CO uniforms. In response to DOI's 2014 integrity tests, DOC agreed to significantly enhance security procedures, including placing drug-sniffing dogs and Special Operations Division officers at staff entrances and instituting mandatory x-ray screenings of incoming food and medication. According to [the 2014 integrity test report](#), these security reforms were “reasonably calculated to address the problems found in [the] report.”

As a correction officer or member of DOC staff, engaging in a sexual act with an inmate is indefensible. DOI takes allegations of this nature extremely seriously and will continue to investigate this illegal conduct and make arrests where appropriate.

Mark G. Peters, DOI Commissioner

Because of DOC's failure to address the problems uncovered in the 2014 report, combined with [DOI's 2018 report](#) revealing similar vulnerabilities at other facilities, DOI has recommended both a strengthening of screening protocols and also the establishment of a dedicated, independent unit of specially trained officers conducting screening at DOC entrances. As shown by the investigation detailed in the 2018 report, DOI remains committed to continuously assessing the efficacy of DOC security measures.

Stopping Sexual Assault

DOI has also been conducting an intensive investigation into sexual assault at DOC facilities. According to recent reports, sexual assault is pervasive on Rikers Island. According to [court filings](#), there were 116 sexual abuse reports filed on Rikers in 2014 alone. According to DOC's own mandatory reporting, inmates alleged 131 and 321 instances of sexual abuse by DOC staff in [2015](#) and [2016](#), respectively.

For obvious reasons, sexual assault of inmates by COs is a serious violation. Legally, [any sexual relations between COs and inmates constitutes statutory rape](#), even if such relations would have been considered consensual outside of the penitentiary setting. Several rationales underlie this doctrine. First, the power COs exercise over inmates removes the inmates' capacity to voluntarily consent. Second, inmates may use sex to compromise COs, leading to security breaches. For instance, an inmate may promise sex or threaten to disclose evidence of sexual relations to convince a CO to smuggle contraband, overlook rule-breaking, or otherwise compromise facility security. Third, a CO engaging in sexual relations with an inmate may be exploiting that inmate's particular vulnerabilities. Federal

investigators, for example, found that in many sexual abuse cases the COs exploited inmates' drug addictions, prior sexual abuse, mental health issues, and pending deportation to obtain sexual favors.

Incidents

February 2016: A joint investigation between DOI and the Bronx County District Attorney resulted in [the arrest of Rikers CO Nicole Bartley](#), who was charged with rape and promoting prison contraband.

April 2017: Sidney Wilson, a former physician's assistant employed by a private healthcare contractor on Rikers, was indicted on 43 counts of Rape, Sexual Abuse and related crimes for sexual acts allegedly committed against four Rikers inmates. [According to DOI's investigation](#), Wilson traded items such as gum, socks, and fast food in exchange for sexual acts.

June 2017: Rikers Island CO Jose Cosme [pleaded guilty to a third-degree Criminal Sex Act](#) for sexually assaulting an inmate in the Rose M. Singer Center on Rikers Island. According to the investigation, Cosme [ambushed an inmate inside a closet hidden from cameras](#). Concerned that correction officials would not treat her allegation against Cosme seriously, Healy mailed physical evidence to a friend and to a relative, both outside Rikers, for safekeeping.

Recommendations

As DOI's work investigating numerous incidents of sexual assault on Rikers has made clear, the single most effective measure to address this issue may be preventative, rather than investigative: cracking down on inappropriate contact between COs and inmates before sexual assault occurs. [A 2015 DOI report on DOC hiring processes](#) found that a large number of hired COs had pre-existing relationships with inmates. This was demonstrated by the existence of DOC-recorded telephone calls between applicants and current inmates, where the applicants provided no viable explanation for the calls.² Because DOI has found that inappropriate contact with inmates is correlated with sexual misconduct toward inmates, preventing such contact could prove to be the proverbial ounce of prevention.

In the meantime, two policies may prove effective in preventing and uncovering sexual abuse by COs: more surveillance cameras in secluded areas and random monitoring rounds by supervisors. The Board of Correction, the oversight body that regulates, monitors, and inspects City correction facilities, has mandated that DOC consider instituting both of these policies. Nevertheless, it is important to monitor whether these policies are actually adopted and implemented in the jails.

Correction Officers should safeguard the facts as well as the City's jails; instead these defendants lied to cover up their crimes and violence.

Mark G. Peters, DOI Commissioner

² Inmate telephone calls are tracked and recorded by the Inmate Financial Commissary Management System. DOI conducted searches of the system for applicants' personal cell phone numbers to determine the pre-existing contact between applicants and inmates.

Prosecuting Use of Excessive Force & Exposing Cover-ups

DOI has further identified another form of systemic misconduct on Rikers Island: the use of excessive force by guards against inmates and subsequent cover-ups, often by falsifying use-of-force (UOF) reports. According to a [report by a court-appointed monitor](#), during June 2017, “there were 423 use of force incidents which included at least 35 possible head strikes,” a technique that should only be used as a last resort. Of these 423 reported incidents, at least 100 involved uses of force on restrained inmates.

Excessive use of force is frequently followed by an attempt by COs to cover up the incident, obscuring their misconduct. Independent of the excessive use of force, the cover-up violates DOC policy and can itself be a crime.

In order to root out misconduct, DOI investigates physical force cases by comparing the prison’s video surveillance with officer interviews and UOF reports, looking for inconsistencies suggestive of wrongdoing. These increased oversight efforts, as well as increased emphasis on surveillance review as video surveillance capacity improves, have increased detection and deterrence of these crimes.

Incidents

April 2016: A joint DOI-Bronx DA investigation led to the arrest of Rikers CO Bradford Jones on [assault charges](#). Jones was captured on video surveillance entering an inmate’s cell and striking the inmate several times in the head with a radio. According to DOI Commissioner Peters, coordination by the Bronx District Attorney’s Office, DOC, and DOI resulted in Jones’s arrest within 12 hours of the assault.

June 2016: Five DOC employees were [convicted](#) of assaulting Rikers inmate Jahmal Lightfoot, as well as attempting to cover up the assault after the fact. [Prosecutors alleged](#) that the nine COs, including two jail captains, assaulted Lightfoot to make an example of him, after a series of gang-related stabbings on Rikers. Assistant Chief of Security Eliseo Perez ordered a team of officers to [beat Lightfoot and falsify records after the assault](#), claiming that an armed Lightfoot initiated the conflict by lunging at the officers. Afterward, to maintain the COs’ cover story, Lightfoot was punished with [over 100 days in solitary confinement](#).

November 2016: DOC Captain Moises Simancas, CO April Jackson, and CO Tyrone Wint [pleaded guilty to falsifying UOF records](#) regarding the beating of a Rikers inmate. The DOI investigation found that the officers had led the inmate to a secluded area and proceeded to beat him with their batons. By spotting inconsistencies between the UOF reports and the prisoner’s injuries, the investigators proved that the officers had omitted from the report the fact that they used their batons.

January 2017: Four Rikers Island COs were found [guilty of assault and false filing](#) after a review revealed discrepancies between UOF reports and witness accounts. The defendants claimed that they intervened to stop inmate Carl Williams from hanging himself, but DOC video recordings contradicted this assertion. Two COs held Williams down as a third kned him repeatedly in the head, and a fourth CO kept watch outside the cell. Three of the COs were sentenced to jail, and the fourth received a conditional discharge, accompanied by 100 hours of community service.

Recommendations

As mentioned above, video surveillance is one of the most effective deterrents to excessive use of force, as well as a highly useful investigative tool for DOI to uncover misconduct after the fact. As of June 30, 2017, [DOC had](#)

[installed 7,921 additional wall-mounted surveillance cameras on Rikers](#), as required by a federal settlement order [mandating the placement of 8,000 surveillance cameras in total](#).

Furthermore, DOI's proposed reform of DOC hiring processes, as described further below, would go a long way toward reducing excessive use of force incidents. The DOI report on the processes found that [25 of 150 recently hired COs failed the "good character" requirement that DOC uses for hiring COs](#). The character requirement disqualifies applicants for any of the following:

- (a) conviction of a felony;
- (b) conviction of any offense, the nature of which indicates lack of good moral character or disposition towards violence or disorder;
- (c) repeated convictions of an offense, where such convictions indicate a disrespect for the law;
- (d) discharge from employment, where such discharge indicates poor behavior or inability to adjust to discipline;
- (e) dishonorable discharge from the Armed Forces;
- (f) conviction for petit larceny; and
- (g) conviction of domestic violence.

Better enforcement of existing requirements for hiring new COs, in particular the requirements related to violent criminal history and predisposition for violence, would likely see a significant decrease in excessive use of force incidents.

DOI'S REFORM OF DOC LEADERSHIP AND HIRING PRACTICES

As DOI's work investigating CO misconduct and crimes commenced, it became clear to Commissioner Peters and DOI that there were systemic problems at DOC that needed to be addressed beyond the misconduct issues with COs.

First, problematic conduct was discovered among the highest rankings DOC officers. A 2017 DOI investigation revealed [prolonged, systemic misuse of city-owned vehicles by DOC executive staff](#). By reviewing vehicle usage in 2016, mapping millions of GPS data points, and analyzing dozens of vehicle usage maps, vehicle assignment records, gas card data and E-ZPass statements, DOI found that 21 senior-level DOC officials, including then-DOC Commissioner Joseph Ponte, routinely abused take-home vehicle privileges by using the vehicles for personal trips. The vehicle misuse by these officials was wide-ranging, from vacation trips to Maine, to shopping trips at the Woodbury Common Outlets. As [the DOI report](#) indicated, these misuses violated City policy, DOC policy, and conflicts-of-interest regulations.

In order to better ensure compliance with vehicle usage policies, [DOI made a number of recommendations](#) to DOC, such as:

- Reissuing to all staff who drive City-assigned vehicles the Citywide rules and regulations that prohibit the use of City vehicles for personal use, and requiring each driver to acknowledge receipt of the policies;
- Enforcing existing policies related to vehicle usage, including the requirement that drivers maintain trip sheets, with a centralized way of tracking trip sheets;
- Periodic audits of E-ZPass and gas card usage to ensure that unauthorized out-of-state travel does not occur; and
- Annual audits of vehicle usage, aided by GPS data.

In addition to abusing vehicle privileges, high-level DOC officials were found by DOI to have resisted and undermined DOI's campaign to clean up Rikers. In early 2017, DOI reported to Mayor de Blasio that [Deputy Commissioner Gregory Kuczinski of the Investigation Division--who was head of DOC internal affairs--and his subordinates had surveilled DOI investigators](#) during conversations between those investigators and inmate informants. These conversations were a critical, and then-confidential, part of DOI's efforts to investigate potentially criminal abuse within the jails. DOI also learned that Commissioner Ponte was notified of the eavesdropping months before the DOI report to the mayor, but failed to report the eavesdropping or take disciplinary action. Deputy Commissioner Kuczinski was removed from his position, and Commissioner Ponte has resigned.

Reform of CO Hiring Process

As mentioned above, at the ground level, many of the systemic issues in DOC stem from its hiring process for CO staff. A [2015 DOI report reviewing 150 applicant files for recently hired DOC staff](#) revealed that 54 of the officers hired (35%) had significant red flags—including “multiple prior arrests and convictions, prior associations with gang members, or relationships with inmates”—that should have precluded them from DOC employment. Indeed, a [DOC Legal Coordinator was arrested in March 2018](#), having been charged with providing false and misleading information on a pre-employment application to become a CO. The defendant had denied gang affiliation and police conduct, when in fact she had relationships with multiple gang members and had previously identified as a gang member. The DOI attributed DOC's failure to spot these red flags to several key factors. First, the Applicant Investigation Unit (AIU) staff of DOC was not properly trained to detect these red flags. Second, since disbanding its Recruitment Unit in 2009, DOC had not had a coordinated recruitment program, which could improve the applicant pool. Third, the AIU relied on paper personnel documents, which were easily misplaced or misfiled, and lacked essential background and credit check software to screen applicants. Finally, DOC lacked a program to monitor hired applicants considered prone to fraud, waste, and abuse.

Recommendations

The 2015 DOI report not only highlighted the shortcomings of the DOC hiring process for COs but also [made several recommendations for improving the system](#), with an eye toward eliminating CO misconduct. DOI laid out three broad policy goals (with concrete tasks to achieve those goals): reconfiguring recruitment strategy and applicant disqualification standards; adopting a candidate screening process that is uniform, thorough, and tailored, and that considers unique corruption vulnerabilities; and implementing a system to proactively monitor applicants who are hired but may be vulnerable to corruption. As explained in the DOI report, many problems with DOC recruitment could be improved by utilizing the recruiting practices employed by the NYPD. As a result, many of the recommendations laid out below aim to reform the DOC hiring process to more closely mirror the NYPD hiring process.

First, DOI recommended that DOC develop “an aggressive recruitment strategy and clear disqualification standards to improve the applicant pool.” To this end, DOC should: (1) reestablish its disbanded Recruitment Unit; (2) adopt automatic disqualification factors (e.g. conviction of certain crimes); (3) expand its list of potential disqualifying factors to include DOC-unique corruption risks (e.g. financial instability as a marker for vulnerability to accepting bribes); and (4) update the language in the CO openings announcements in order to publicize automatically disqualifying criteria in order to reduce the number of unqualified applicants.

Second, in order to standardize and tailor the candidate screening process, DOI recommended that DOC: (1) adopt a more thorough applicant review process, with multiple levels of review; (2) create a standard detailed checklist

identifying required applicant documents, as well as investigative steps necessary for applicant background investigations; (3) ensure that background investigators are specifically looking out for applicants who have had telephone contact with inmates; (4) implement standardized training for case coordinators in investigative and interview techniques; (5) computerize the applicant file review system; (6) engage in a more rigorous review of psychological testing for applicants; and (7) require written explanations for decisions by superiors that overrule the judgment of subordinates in the hiring process.

Third, DOI recommended a system through which DOC could monitor applicants who are hired but are still considered vulnerable to corruption, such as newly-hired COs with prior existing relationships with inmates.

In order to establish permanent reforms at DOC, DOI recognized that there must be changes in the department's culture at all levels to reject—rather than embrace or overlook—fraud, waste, and abuse.

CONCLUSION

Despite, or perhaps because of, DOI's recent striking success in investigating DOC, there remains much work ahead in implementing necessary reforms at Rikers and more generally within DOC, as evidenced by DOI's ongoing investigation and monitoring reports.

DOI's commitment to rooting out fraud, waste, and abuse is strong, and the agency has demonstrated that it will continue to employ long-term strategies to attack corruption on all fronts.

These investigations have led to a better understanding of what is instigating the problems. Right now, elected officials are discussing closing down Rikers Island in the next decade. Our role as inspectors general is to present the facts for policymakers to use. Regardless of whether Rikers is shuttered, the issues we have found . . . are problems that are not resolved by closing Rikers alone. Additional change will be required, and needless to say, our work in this area is not done.

DOI Commissioner Peters

About:

What is CAPI?

The Center for the Advancement of Public Integrity is a nonprofit resource center dedicated to improving the capacity of public offices, practitioners, policymakers, and engaged citizens to deter and combat corruption. Established as partnership between the New York City Department of Investigation and Columbia Law School in 2013, CAPI is unique in its city-level focus and emphasis on *practical* lessons and tools.

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This publication is part of an ongoing series of contributions from practitioners, policymakers, and civil society leaders in the public integrity community. If you have expertise you would like to share, please contact us at CAPI@law.columbia.edu.

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