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Skylar Corby ✨ · 2 days ago · 3 min read

A Broken System: How New York City Is Failing Transgender Inmates

In June 2019, Layleen Polanco, a transgender woman awaiting trial at Rikers Island because she could not afford \$500 bail, was found dead in her solitary confinement cell.[1] After an investigation that took an extensive period of time and external pressure to complete, New York City's Board of Correction found that Polanco died from an epileptic seizure, which corrections officers entirely missed due to their neglect and lack of properly timed monitoring checks.[2] This prompted public outrage and a wave of protests surrounding not only Polanco's death, but also the extreme levels of violence faced by trans women, especially those of color, both in and out of carceral settings.[3] In response, the Board of Correction formed the LGBTQ+ Affairs Unit to facilitate programming for LGBTQ+ inmates in NYC jails and specifically provide gender-affirming support to transgender inmates, including housing those individuals in facilities consistent with their gender identity.[4]

This slow progress came to a halt in 2022, after newly-elected New York City Mayor Eric Adams appointed Louis Molina as Commissioner of the New York Department of Corrections, "whose administration immediately" gutted the LGBTQ+ Affairs Unit.[5] Despite evidence that transgender individuals are safer when placed in corrections housing which reflects their gender identity,[6] all attempts to actualize this plan have been abandoned under Commissioner Molina.[7] This has led to further violence for transgender women in men's jail facilities, now without even the possible support or protection from the Affairs Unit, and blatant transphobia both from cis male inmates and corrections officers.[8] Trans women at Rikers are being left behind by a system that doesn't believe in their existence in the first place, often referring to them as men and denying them care.[9]

Against mounting reports of egregious violence against transgender women in Rikers, some have taken to courts to seek damages and/or relocation to gender-aligned housing.[10] One such suit was brought by Latee Brockington, a trans woman imprisoned at Rikers, who alleged that jail officials allowed her to be sexually assaulted by other inmates three times over the course of six months, despite requests to be transferred to a facility which conformed with her gender.[11] Even if Brockington is victorious on her claims, her suit is unlikely to lead to systemic changes given the Department of Corrections' continued mistreatment of transgender inmates.[12] Despite there being a history of solutions to keep transgender inmates safe, including a separate gay and transgender wing at Rikers Island,[13] the Department of Corrections continues to turn a blind eye to the catastrophes being left in its destructive wake.[14]

The City of New York owes solutions to transgender inmates, especially trans women of color, who are already facing the ills of an irreparably broken justice system which often punishes them not only by incarcerating them, but also by placing them into inherently dangerous facilities.[15] Cloaked by a purported mission to re-prioritize law enforcement and fight violent crime, Mayor Adams and Commissioner Molina are reinforcing the ills of incarceration and causing unprecedented violence against transgender women of color.[16] They deserve better, and Commissioner Molina should prioritize reinstating the LGBTQ+ Affairs Unit to ensure real progress can be made for an exceedingly vulnerable population.[17]

[1] Hannah Gold, *What Really Happened to Layleen Polanco?*, THE CUT (Aug. 31, 2020), <https://www.thecut.com/2020/08/what-really-happened-to-layleen-polanco.html>.

[2] *Id.*

- [3] Rick Rojas & Vanessa Swales, *18 Transgender Killings This Year Raise Fears of an ‘Epidemic,’* N.Y. TIMES (Sept. 27, 2019), <https://www.nytimes.com/2019/09/27/us/transgender-women-deaths.html?referringSource=articleShare>; see also Erica Bryant, *Violence, Torture, and Isolation: What It’s Like to Be Trans in Prison*, THE VERA INST. (Nov. 17, 2022), <https://www.vera.org/news/violence-torture-and-isolation-what-its-like-to-be-trans-in-prison#:~:text=The%20brutal%2C%20inhumane%20prison%20system,mental%20and%20physical%20health%20care.>
- [4] George Joseph, *Trans, Scared and Stuck in the Men’s Unit*, CURBED (Jan. 24, 2023), <https://www.curbed.com/article/rikers-island-trans-women-violence-sexual-assault-the-city-investigation.html>.
- [5] *Id.*
- [6] See generally NYC Bd. of Correction, *ASSESSMENT OF THE TRANSGENDER HOUSING UNIT* (2018), available at <https://www.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/THU%20FINAL%20Feb%202018.pdf>.
- [7] Dana Wax, *Rikers is Already Awful, and It’s Worse if You’re Trans*, N.Y. TIMES (Mar. 7, 2023), <https://www.nytimes.com/2023/03/07/opinion/rikers-island-transgender.html>.
- [8] Joseph, *Trans, Scared and Stuck in the Men’s Unit*, *supra* note 4.
- [9] *Id.*
- [10] Julia Guarneri, *Misplacement, Mistreatment and Abuse of Transgender Women in our City’s Jails*, WAKE FOREST L. REV.: CURRENT ISSUES BLOG (Nov. 22, 2022), <https://www.wakeforestlawreview.com/2022/11/misplacement-mistreatment-and-abuse-of-transgender-women-in-our-citys-jails/>.
- [11] Samantha Riedel, *Latee Brockington, Trans Woman Imprisoned at Rikers, Sues After Sexual Assaults*, THEM (Feb. 11, 2022), <https://www.them.us/story/latee-brockington-trans-woman-imprisoned-rikers-lawsuit-sexual-assault>.
- [12] See Ari Ephraim Feldman, *Council presses jail chief on transgender inmate policies*, SPECTRUM NEWS N.Y. (Jan. 25, 2023), <https://ny1.com/nyc/all-boroughs/news/2023/01/25/council-presses-jails-chief-on-transgender-inmate-policies>.
- [13] See Guarneri, *Misplacement, Mistreatment and Abuse of Transgender Women in our City’s Jails*, *supra* note 10.
- [14] See Feldman, *Council presses jail chief on transgender inmate policies*, *supra* note 12.
- [15] See Sarah Ortlip-Sommers, Note, *Living Freely Behind Bars: Reframing the Due Process Rights of Transgender Prisoners*, 40 COLUM. J. GENDER & L. 355, 360-4 (2021).
- [16] Joseph, *Trans, Scared and Stuck in the Men’s Unit*, *supra* note 4.
- [17] *Id.*