



Testimony by the Campaign for Alternatives to Isolated Confinement

Submitted to the New York City Board of Correction on October 16, 2015

The Campaign for Alternatives to Isolated Confinement consists of organizations and individuals who are working for sweeping reform of isolated confinement policies and practices in New York State. The leadership of the campaign includes individuals who have been directly affected by solitary confinement – people who themselves experienced solitary, and people who have family members or loved ones who are currently in solitary. It also includes concerned community members, lawyers, and individuals in the human rights, health, and faith communities throughout New York State.

We believe that solitary confinement poses serious risks for the mental health of all people held in such conditions, including the large number of people with a pre-existing mental health conditions still in solitary.

In this testimony, we will outline our opposition to the proposed amendments to the Jail Minimum Standards that govern the use of punitive segregation (solitary confinement), visits, and packages. These changes will have a negative effect on people incarcerated in NYC jails, their families, and friends. They will have a disproportionate impact on Black and Latino families and communities, and poor people who cannot afford bail.

Solitary Confinement

The rule changes enacted in January 2015 limiting the maximum sentence any incarcerated person can receive for solitary confinement to 30 days for a single infraction, and 30 consecutive days overall, with 7 days out before the person may be returned to solitary confinement, were a positive step. In addition, the prohibition on placement in solitary confinement for more than 60 days within a six-month period unless the person continues to engage in “persistent acts of violence” that can’t be addressed by placement in an enhanced supervision housing unit is also a positive step. The Board of Correction (BOC) should follow-up on these positive steps to further limit solitary confinement in NYC jails. Backing away from these reforms by increasing the sentence for assaulting staff to 60 days and removing the requirement for a 7-day respite period after a person has served 30 consecutive days of solitary confinement is moving in the wrong direction and will be counterproductive in the long-run.

We know from numerous studies of the mental health effects of solitary confinement¹, and from the extensive research and prison visits of Juan Méndez, UN Special Rapporteur on Torture that solitary confinement beyond 15 days amounts to cruel, inhuman, or degrading treatment, or torture.² The Revised Standard Minimum Rules for the Treatment of Prisoners, dubbed the

¹ David H. Cloud, Ernest Drucker, Angela Browne, and Jim Parsons, “Public Health and Solitary Confinement in the United States,” *American Journal of Public Health*, 105, no.1 (2015): 18-26.

² Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, U.N. Doc. A/66/268 (August 5, 2011).

‘Nelson Mandela Rules,’ that the Commission on Crime Prevention and Criminal Justice of the United Nations, and the Economic and Social Council of the United Nations endorsed on October 7, 2015 reinforce this understanding of prolonged solitary confinement beyond 15 days as torture, and provide an absolute prohibition on torture and ill-treatment of incarcerated persons.³

The Association of State Correctional Administrators, an organization that collaborated with the United Nations on the formulation of the “Mandela Rules,” has also publicly called for new limits on the aggressive use of isolation strategies in prisons in its recently released report, *Time-in-Cell: The Liman-ASCA 2014 National Survey of Administrative Segregation in Prison*.⁴

Finally, those penal institutions that have reduced the use of solitary confinement have also experienced a concomitant decline in violence in their facilities.⁵ The BOC must support less reliance on solitary confinement and not more.

Given the consensus at the highest levels that we must move away from and not increase reliance on the use of prolonged solitary confinement, the BOC should not approve the requested changes on the length of time allowed in solitary confinement. The BOC should also reject the request to remove the requirement for a 7-day respite period after a person has served 30 consecutive days of solitary confinement. Instead, the BOC should promulgate a rule – in line with the Mandela Rules – expanding on the current 30-day limit, to restrict the use of solitary confinement to a maximum of 15 consecutive days.

Visits

The proposed changes to the Visiting Standards also represent a step backwards, and the Board of Correction must reject them.

Studies show that consistent, meaningful contact between an incarcerated individual and his/her family and loved ones is one of the best deterrents to recidivism after release. Therefore, visiting protections and opportunities should be strengthened and not limited. Children, family, and friends who visit loved ones awaiting trial or serving a short sentence in NYC jails must be allowed to have meaningful physical contact during visits.

Vague criteria about the dangerousness of incarcerated persons and their visitors will deprive families the consistent contact they need. Department of Correction (DOC) should not have the right to conduct broad investigations of visitors, including criminal record checks, or to decide

³ <http://www.un.org/apps/news/story.asp?NewsID=52190#.VhkkG4eoYB>; <http://www.penalreform.org/wp-content/uploads/2015/05/MANDELA-RULES.pdf>.

⁴ <http://associationsnow.com/2015/09/prison-administrators-time-reconsider-solitary-confinement/>

⁵ BEYOND SUPERMAX ADMINISTRATIVE SEGREGATION Mississippi’s Experience Rethinking Prison Classification and Creating Alternative Mental Health Programs in CRIMINAL JUSTICE AND BEHAVIOR, Vol. XX No. X, Month XXXX xx-xx DOI: 10.1177/0093854809341938 © 2009 International Association for Correctional and Forensic Psychology



who is a family member and what constitutes a close or intimate relationship. Such a right could have negative repercussions for many people, including LGBT individuals and survivors of intimate partner violence. Communities of color, already over-policed and criminalized, will be further victimized, since there is the possibility that criminal records will be used to restrict or prohibit family members from visiting their incarcerated loved ones.

Since DOC has a long history of violating visit rules, appeals of visit restrictions should go immediately to the BOC and not to the DOC, as the proposed change would require. Such appeals need the speedy resolution that the BOC could supply.

Although the DOC claims that these proposed changes are needed to reduce violence and stop contraband from entering the jails, the DOC provides no evidence that these limitations will accomplish that objective. Since most violent incidents in the NYC jails do not involve smuggled contraband, and much of the blame for violence in the jails lies with the correction officers and their union, further restricting the one thing that has been shown to reduce violence in jails and prisons, meaningful connection to family and community, will only exacerbate the problem.

Rather than further restricting visiting, NYC needs to improve all aspects of the procedures governing this important experience by reducing wait times; upgrading equipment used for searches; communicating visit times and procedures clearly; assigning well-trained and steady staff to the visit areas; and providing appropriate space for all visitors, including children. The BOC should not accept the proposed changes and instead should require that the DOC revise its burdensome visit process and create rules that encourage connections with family members and the local community.

Packages

The BOC must reject proposed changes to the Packages Standards. By prohibiting people in NYC jails from receiving packages, except for court clothes, unless the items are purchased from an approved vendor, families of limited means are put at a distinct disadvantage. Because of the increased purchase and shipping costs, they will no longer be able to provide items like socks, underwear, notebooks, and envelopes.

Again, there is insufficient evidence to sustain the argument that incoming packages are a significant source of weapons that the DOC searches cannot detect. The burden that this proposed restriction will inflict on incarcerated people and their families is far out of proportion to any reduction in violence that could be achieved.

Those who are incarcerated are human beings worthy of respect and fair treatment. We look to the BOC to maintain rules that promote a just and humane environment for those who are in the custody of the City. Do not let the DOC erode the rules already in place that move us in that direction, and instead take further steps to protect the rights of people incarcerated in the city jails.