Testimony of Dr. Frances Geteles, Clinical Psychologist

Board of Corrections Hearing on Proposed Rule Revisions Amending the

Minimum Standards for New York City Jails

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My name is Frances Geteles and I am a Clinical Psychologist, licensed in New York State. Since 1993, I have been a member of the Asylum Network of Physicians for Human Rights (PHR) providing psychological assessments for survivors of persecution and torture. I am now also a member of the Campaign for Alternatives to Isolated Confinement (CAIC), which is working to reform the way solitary confinement is used throughout New York State. These two areas of work are closely related since prolonged solitary confinement has been defined as a form of torture and/or cruel, inhuman and degrading treatment.

Last year in response to outcries from the public, you made some revisions to the use of solitary confinement (or in your words punitive segregation) including some limits on the duration of such punishment, and limits on who can or cannot be punished in this way. In essence you are considering going back on some of your own improvements. The explanation for these new rules is, once again, the need to curb violence in the jails. And, once again, as a psychologist, I believe your plan to be badly flawed. Additionally, I wish to point out that your existing practices are out of compliance with the Mandela Rules passed by the United Nation defining new international minimum standards for the treatment of people in prison – standards based on "generally accepted good principles and practices."

Among the statements in the Mandela Rules that are relevant to your use of solitary confinement are the following:

1) Under no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel or degrading treatment. The following practices are prohibited: indefinite solitary confinement and prolonged solitary confinement (more than 15 days).

2) An individual must not be sanctioned for conduct that is considered to be a direct result of his or her mental illness or intellectual disability.

3) Imposition of solitary confinement should be prohibited in case of persons with mental or physical disabilities when their condition would be exacerbated by such measure.
4) Solitary confinement shall only be used in exceptional cases as a last resort, for as short a time as possible.

In the new rules you passed last year, you limited solitary confinement to no more than 30 days at one time and no more than 60 days in a 6 month period. You also stipulated that after 30 days individuals who are being isolated for non-violent infractions of the rules, must be released from isolated confinement for at least 7 days. Now you are considering allowing prison guards or prison authorities to waive the 7-day release rule as many as 3 times and although you say the maximum time someone can be solitary is now 60 days you also allow the Department Chief to grant an exception to that rule. And you are not clear about how often that can happen either. With 3 waivers we are now looking at the possibility of some individuals spending 120 consecutive days in solitary – a period that is 8 times as long as the time defined by the Mandela Rules as constituting torture.

And although we know that there are some people who are most vulnerable to the damaging effects of the torture of solitary confinement, such as youth, the mentally ill and the physically disabled, we also know that severe pain and suffering are inflicted on all people who are subjected to this harsh punishment. Isolation can lead to a long list of psychological symptoms as well as serious risk to the individual's health. And the longer the confinement, the more the damage that is done. Furthermore, with regard to the use of the 15 days as defining when the use of solitary confinement becomes torture, Juan Mendez, the UN Rapporteur on torture said that he chose that seemingly arbitrary cut-off point because there is some evidence in the literature that at that point some of the harmful psychological effects of isolation become irreversible.

Knowing all this, how can you consider reverting to an increased use of solitary confinement? You continue to put mentally ill individuals in isolation as long as medical personnel do not object. Although you say your purpose is to limit violence, you continue to

allow people to be isolated as punishment for non-violent behavior, so you are clearly not using it for safety purposes alone, nor as the UN recommends "only as a last resort.

You seem to be perpetuating a system which says that the only way to deal with a problem is punishment and more punishment. We know that many of the people in jail are already experiencing great distress. Compounding that distress by making their experience even more devastating, is, if nothing else counterproductive. I mentioned above that solitary confinement can cause many symptoms ranging from insomnia and confusion to hallucinations and psychoses. Also among those symptoms are anger, irritability and loss of self-control. So, if someone has already exhibited volatile behavior, how does it make sense to put him into a situation that is likely to increase his tendency towards volatility? It makes more sense to offer a therapeutic response. But it seems that this does not happen because not enough thought is given to understanding the causes of certain problematic behaviors. The UN says that sanctions should not be imposed for conduct that is a direct result of a person's mental illness or intellectual disability. How often is that question even considered in response difficult behavior before punishment is meted out? We know that often, positive re-enforcement is more effective than punishment, so why is there not more consideration given to such alternative ways of affecting behavior?

Punishment is much easier than finding creative ways to incentivize good behavior or providing necessary programs and therapeutic resources. But, you should not take the easy way out – and you should not let prison authorities or prison guards take the easy way out either.

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