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**THE COUNCIL  
OF  
THE CITY OF NEW YORK  
DANIEL DROMM  
COUNCIL MEMBER, 25<sup>TH</sup> DISTRICT, QUEENS**

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**TESTIMONY OF COUNCIL MEMBER DANIEL DROMM  
NEW YORK CITY BOARD OF CORRECTION HEARING  
RE: PROPOSED RESTRICTIVE HOUSING RULE  
DECEMBER 16, 2019**

First, I want to express my gratitude to the Board members and staff for your work on this issue. The proposed rules show a concerted effort to incorporate the concerns that many individuals and entities, including myself, have expressed over the years.

I would, however, encourage the Board to go a much-needed step further by adopting the following basic premises. First, recognize that solitary confinement—or whatever name the Department of Correction (DOC) decides to brand it—is a complete and utter failure, and must end. Second, seize this opportunity to replace the existing system and its attendant culture of brutality and violence, just as the physical facilities are being replaced with smaller ones focused on reentry. Almost all individuals in custody will, at some point, return to their communities—our communities—and it is incumbent upon us to instill the tools these individuals need to manage stress and conflict as positively as possible.

Specifically, I ask that the rules be amended to:

-End restrictive housing for non-criminal infractions and, instead, implement restorative measures whenever possible. In no case should any placement exceed 15 days, based on the UN standard; and

-Reserve restrictive housing for temporary separation needed to secure facilities when facing imminent, documentable threats. Facilities should rely on therapeutic alternatives that minimize punitive aspects for those with a wide range of mental health issues. There is precedent for this approach, namely the Clinical Alternative to Punitive Segregation (CAPS) units.

I also want to talk about the need for procedural reforms, which are critical given the widely documented abuses of power in DOC facilities. The rules should, among other things:

-Ensure that lawyers are present for all proceedings and that truly independent adjudicators make the critical decisions; and

-Ensure that rights are read to individuals where there is any possibility of a future criminal prosecution based on the incident in question.

Finally, there should never be placement in restrictive housing unless there is a clear path to release into a less restrictive unit.

I applaud the Board's stated goal, in accordance with the Mandela Rules, of "placing restrictions on people in custody that are limited to those required to achieve the appropriate objectives for which the restrictions are imposed." However, the DOC has long struggled to respect the basic human rights of individuals in its custody. As this process has been underway, the *New York Times* reported that correction officers stood idly by while teenager Nicholas Feliciano tried to hang himself. An intensive level of oversight is absolutely necessary given the tragic history of our jails.

As such, I request insertion of the following item into the rules and the removal of all conflicting provisions:

The DOC must provide records of each placement to the Board with a clearly articulated reason as to how its action is in direct response to an infraction of an individual in custody; a record of all evidence that the adjudicator is relying on; data about the proceeding, including relevant dates and the names of the adjudicator, lawyer, and witnesses; confirmation that certain procedures have been followed, including the sharing of appeal information; and an individualized explanation as to how the DOC's action helps prepare individuals for reentry and, if relevant, is necessary to prevent immediate danger.

I have worked closely with, and befriended, several survivors of this government-sanctioned torture. I pray that this Board will hear their cries—and also remember those who have not survived—and end the practice of solitary confinement once and for all.

Thank you.