

From: [Brian Holbrook](#)
To: [BOC \(BOC\)](#)
Subject: Public comment re proposed restrictive housing rule
Date: Wednesday, April 21, 2021 4:02:23 PM

Hello. As a public defender in Brooklyn, I am writing to demand that the Board of Corrections make significant changes to the proposed rule on restrictive housing. The rule as currently drafted will not prevent or ameliorate the devastating and well-documented psychological harms caused by the torture that is solitary confinement. This is particularly true because the rule as drafted does not guarantee meaningful human interaction in an environment that is conducive to socialization and conversation, does not guarantee that incarcerated people will have access to meaningful programming, and permits people to remain in these intolerable conditions indefinitely, with no maximum duration of confinement guaranteed. These are all fundamental flaws in the proposed rule's approach, and I am calling on BOC to adopt the changes urged by the Jails Action Coalition and the Halt Solitary campaign, among others.

I also want to particularly call attention to the proposed rule's failure to guarantee due process and access to counsel to incarcerated people who are being placed in or are challenging their continued placement in solitary confinement. Given the enormous harms that solitary inflicts, it's vital that incarcerated people are only removed from the general population when DOC has met the burden under the operative rules to show that sanction is necessary and justified. Without access to counsel, and without a neutral decisionmaker, any rules, standards, or criteria for placement in solitary will not be reliably enforced. It is neither fair nor reasonable to expect an incarcerated person, untrained in advocacy and unable by reason of their confinement to inform themselves about the law and facts, to defend themselves in hearings that may consign them to solitary confinement for months or years. Access to counsel is a vital check on a process that is overwhelmingly stacked against incarcerated people, and it is the only way to prevent mistakes and miscarriages of justice.

I know that COBA and DOC administrators try to present any move towards justice and humane treatment for incarcerated people as a threat to security or safety. After decades of increasing use of this inhumane practice, the social science and psychological evidence is clear: confining people in tiny cells and cutting them off from human contact promotes misery and mental illness, not true safety. It's BOC's responsibility to protect incarcerated people from the arbitrary and cruel decisions of correctional staff, and the proposed rule doesn't do that yet. I hope you will adopt the necessary changes to truly end solitary confinement in our city's jails.

Thank you,

Brian Holbrook

Senior Staff Attorney, Family Defense Practice
[Brooklyn Defender Services](#)
195 Montague St, 5th Floor,
Brooklyn NY 11201
T: 347-592-2548 | F: 347-710-6251
E: bholbrook@bds.org | M: 347-768-3111
Pronouns: he/him

This e-mail, and any attachments thereto, is intended only for use by the addressee(s) and may

contain legally privileged and/or confidential information. If you are not the intended recipient, please do not disclose, distribute or copy this communication. Please notify the sender that you have received this e-mail in error and delete the original and any copy of the e-mail. Unintended transmission does not constitute waiver of the attorney-client privilege or any other privilege.