

Via email: [coc@coc.nyc.gov](mailto:boc@coc.nyc.gov)

Subject Line: Statement from NYU Law Students on Key Flaws in the BOC's Proposed Rule on Solitary Confinement

To the New York City Board of Correction (BOC),

We write to you as members of New York University (NYU) School of Law's Solitary Confinement Project (SCP), a collective of law students and future lawyers dedicated to abolishing the carceral system. One of the most egregious manifestations of this system is the continued use of solitary confinement despite its wide spread condemnation as inhumane torture in International Law. This practice disproportionately affects Black and Brown New Yorkers who are harmed at higher rates and subject to more frequent and lengthy sentences than their white counterparts. As the Chair of this Board, Jennifer Jones Autsin herself has recognized: "[p]unitive segregation has been proven over and over to be an inhumane practice resulting in debilitating trauma that endures, often for the remainder of a person's lifetime."

Law students in SCP work with the Urban Justice Center (UJC) to connect with individuals who have experienced solitary and present their experiences to the BOC. Through this collaboration, we have witnessed the atrocity of solitary confinement over the years. Many of our clients have experienced severe mistreatment, dehumanization, isolation, and the deterioration of their mental health as a direct result of solitary confinement. On countless occasions, we have presented the testimony of those in solitary before this Board. This year alone, we have presented 10 client accounts detailing suffering faced by those in solitary from a lack of services or medical attention, being shackled when outside of their cells, abuse by corrections officers, and near total absence of stimulation or human interaction. Time and again we have repeated how their sense of defeat, of hopelessness, forms and festers in isolation.

In June of 2020, the BOC and the Mayor established a working group to end punitive segregation. The group's proposed rule claims to end solitary confinement, but merely renames and perpetuates the trauma and dehumanizing pain of this torture. We demand you amend your proposal to reflect HALT Solitary Campaign (HALT) and Jails Action Coalition (JAC)'s blueprint of [recommendations](#) and document of [key flaws](#) to end this torture once and for all.

As you know, thanks to the commitment and dedication of organizers over the past nine years, the HALT Solitary Bill became law in New York State on March 31st, 2021. It would be absurd and now contrary to New York State law, if New York City adopted standards that were worse for people than those set for jails and prisons under HALT. Not only must New York City comply with state law, but it must abolish solitary altogether, as both the Board and the mayor have promised on repeated occasions.

Ending solitary will provide a basic human right: people will have at least 14 hours out of cell per day with access to meaningful human engagement and programs in spaces conducive for human beings to interact with one another in a substantive way.

Regarding the proposed rules, we highlight three key flaws we ask the BOC to immediately amend based upon recommendations led by guidance from the HALTsolitary Campaign (HALT), Jails Action Coalition (JAC), and our own experiences as mentioned above.

(1) Do not Construct Additional Inhumane Units

The rules take some of the most punitive and isolative units in the system - NIC structurally restrictive housing and the GRVC Secure Unit - and makes them the basis and model of this regime. The rules imply that more of these units will be constructed but the City should not spend limited resources constructing more of these inhumane units. There is no justification for putting individuals in cages with *potentially* one other person in the same cage or a separate nearby cage.

Constructing new units would simply continue the practice of solitary confinement under a different name. Expenditures on measures that would facilitate caging runs counter to the progressive direction NYC is moving with respect to criminal justice, particularly in pre-trial and general jail detention. In 2019, the City voted to close Rikers. In 2020, NYS passed a bail reform statute which reduced the number of individuals subject to mandatory pre-trial detention. The trend in NYC and NYS has been away from expansion of punitive measures. **For all these reasons the City should not expend limited resources constructing more punitive and isolative units. The BOC rules should instead allow individuals out-of-cell time in large spaces that are conducive to meaningful human interaction.**

(2) Ensure Individuals who are Incarcerated have Access to Counsel

As future attorneys, we find the inaccessibility of legal counsel in the proposed rules to be particularly problematic. Failing to provide people with access to counsel for hearings that can result in placement in RMAS is an unjust denial of due process and strips the operation of these hearings from accountability. As per Department of Corrections' current practice the hearings, overseen by Department staff, do not provide meaningful and unbiased review of alleged incidents.

There is already difficulty accessing counsel. NYU law students interning with the Urban Justice Center have repeatedly had legal calls delayed, cut short, or canceled for no fault of either the intern or the client. Without guaranteed access to counsel, we can only expect such injustices to persist and worsen. **In order to avoid such arbitrariness and injustice taking place at hearings and placement reviews, it is imperative that individuals who are incarcerated have access to their own legal counsel, and retain the rights to present**

evidence and cross-examine witnesses.

(3) End Shackling in its Entirety

While the board claims to end the use of so-called restraint desks and other restraints during out-of-cell time, it does not place limitations on the use of these shackles until November 2021. The board also continues to allow people to be chained to desks or placed in five point restraints or in other forms of restraints. These restraints are authorized not in response to an immediate threat of harm, but under the arbitrary standard of if a person “recently” engaged in serious violent conduct. Review of this shackling only takes place every seven days, well after the harm of shackling has occurred. **We condemn these procedures and ask that the board ban all forms of the inhumane practice of shackling.**

These are merely three key flaws of the many others within the Board of Correction’s proposed rules. We ask that you follow your own promises to end solitary confinement and listen to the directly impacted organizers, who have been sharing their personal experiences and traumas with the BOC through repeated testimonies for many years. It is time for you to honor their experiences and abolish the torture of solitary confinement once and for all.

Regards,

NYU Law Solitary Confinement Project (SCP)	NYU Law Black Allied Law Students Association (BALSA)
NYU Law Ending the Prison Industrial Complex (EPIC)	NYU Law Coalition on Law & Representation (CoLR)
NYU Law Defender Collective	NYU Law Latin American Law Student Association (LALSA)
NYU Law South Asian Law Students Association (SALSA)	NYU Law First Generation Professionals (FGP)
NYU Law Disability Allied Law Students Association (DALSA)	NYU Chapter of the National Lawyers Guild (NLG)
NYU Law Women of Color Collective (WoCC)	NYU Law Domestic Violence Advocacy Project (DVAP)
NYU Law Environmental Law Society (ELS)	NYU Law Women
NYU Law Immigrant Rights Project	
NYU Law Suspension Representation Project (SRP)	
NYU Law American Constitution Society (ACS)	
NYU Law I-PREP	
NYU Law Asian-Pacific American Law Students Association (APALSA)	

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Clay Halbert' 2023	Dov Korff-Korn' 2023
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David Blitzer' 2022	Tom McBrien' 2021
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