

## **Testimony on Proposed Rule by the New York City Board of Correction**

James Gilligan, M.D., and Bandy Lee, M.D.

We are testifying in response to the New York City Board of Correction's proposed rule to establish a new form of "preventive detention" that is to be called "Enhanced Supervision Housing," by means of long-term, slightly modified solitary confinement at the Rikers Island jail complex. The proposal calls for placing inmates into prolonged solitary confinement based on forecasts of what an inmate's future behavior will be, rather than as a means of interrupting an immediate, actual and specific act of violence. This contrasts containment for a strictly limited, short-term "cooling off" period so as to allow the inmate as much time as he needs to discontinue his violent behavior, to get his violent impulses under control, and to return to his current residential unit in a peaceful manner. The latter is employed strategically in clinical settings for therapeutic reasons, usually lasts minutes to hours, rarely more than twenty-four hours, and is an effective means of behavioral control.

The kind of preventive detention that is proposed, however, will have to be called "solitary confinement," because that is exactly what it is. The only difference between this plan and "punitive isolation," as it is currently practiced at Rikers Island, is that inmates in the new housing units would spend nine hours per day and eight hours per night in solitary confinement, rather than fourteen daytime hours and eight hours at night. It ignores the detrimental effects of isolation generally on psychological health and specifically on violent behavior.

The proposed rule is described in the Board's "Directive" as being aimed at decreasing the frequency of violent acts by inmates by means of locking them up for most of each day, during which time they are to be deprived of almost all contact with other human beings, and will be unable to engage in the types of constructive activities and relationships with other inmates and with prison educational and therapeutic staff members that have been shown to actually reduce the frequency and severity of violent behavior in prisons and jails in this country and elsewhere. Programs are the only means we know of for reducing violence in the correctional system, which in the absence of programs generally increases individual violent behavior while in jail and violent behavior when out in the community afterward. For individuals with mental illness, treatment can also be effective. Solitary confinement substantially reduces the chances for access to both of these services.

The main mistake in this proposed new form of solitary confinement, therefore, is that it attempts to reduce violence by moving in the exact opposite direction of what our understanding is of human behavior. Decreased interaction with other people, rather than decreasing violence, actually increases violent behavior and increases the need for more intensive measures. This is because solitary confinement, in which people are deprived of human contact, interactions, and relationships, actually increases violent behavior toward others and toward the self. This has been demonstrated in multiple studies, including a recent one specifically at Rikers Island. In the treatment of violent individuals in the correctional system, it is about time that we recognize that the only practices that have been shown to reduce violence in prisons and jails are the exact opposite: namely, maximal interactions and chances for socialization. We now know that even

negative human interactions are better for mental health (and for pathologic behavior) than deprivation; positive and therapeutic interactions, furthermore, can have a significantly positive effect, if offered in sufficient doses.

So what alternatives are there to the use of force and solitary confinement as means of preventing, or at least reducing the frequency and severity of violence? Dr. James Gilligan was the leader for fifteen years of violence prevention programs in the prisons of Massachusetts, and with Dr. Lee the leaders for ten years of preventing violence through the jails of the City and County of San Francisco. In both of these correctional systems, we found that a combination of intensive educational and mental health treatment programs proved to be able to reduce previously epidemic levels of violence literally to zero for up to a full year at a time when studies were performed.

To recount Dr. Gilligan's history, in Massachusetts, the prisons were essentially a war zone throughout the decade of the 1970's, with an epidemic of suicides, homicides, riots, hostage-taking, arson, and other forms of violence by which inmates, visitors, and prison staff members were killed. During the fifteen years of his making educational and mental health treatment programs available to every inmate in the state, he and his staff were able to go for a full year at a time, during the 1980's and early '90s, without a single homicide, suicide, riot, or hostage-taking incident in any of the state's prisons.

We were even more successful in San Francisco since the late 1990's, with an even more intensive program of education and therapy. Inmates, all of whom were in the jail because of a violent crime were in well-designed, constructive group activities twelve hours a day, six days a week. The result was that the percentage of inmates who engaged in violence of any sort, including even non-lethal assaults and suicide attempts, dropped from roughly sixty per cent per year to literally zero for over a year at a time when we did the measurements. Solitary confinement proved to be completely unnecessary. In fact, the programs were done in open dormitories—not even cell-blocks—of all violent men, which quickly became the safest dormitories in the entire jail system. Even more importantly, the frequency of committing a new violent crime after leaving the jails was 83 per cent lower among the inmates who were in this program, compared with an otherwise identical “control group” of inmates in a conventional jail.

While this program of course cost more money (though only five per cent more) than running an ordinary jail would, we found that it saved the taxpayers \$4 for every \$1 spent on it—mainly because the rate of re-incarceration was so much lower, and the costs of incarceration are so high even without therapeutic and educational programming. As the saying goes, a year in jail would pay for a year at Yale. But even more importantly, this program made the City, and the citizens, of San Francisco significantly safer from the threat of violent crime. The benefits of reduced injuries, hospital visits, adjudication costs, and lost time from work, if we counted them, would make the savings substantially higher.

These are among the reasons why we think it is an enormous mistake for the Department of Correction to go in the direction of increasing the social isolation and punishment of inmates, especially before they have even committed any new act of violence, rather than investing its limited resources in the most intensive educational and therapeutic programs it can afford.

Indeed, we would go further and say that we do not understand how it can afford not to place the emphasis on these constructive programs, which have been shown to be able to decrease the level of violence, and all the financial and human costs associated with it, in both the jails and the city as a whole. This is literally a program that more than pays for itself, while simultaneously increasing the public's protection from violent crime.

Finally, since the proposal for the new type of housing unit is justifying that idea because of the influence of: (a) gang rivalries and violence; and (b) the widespread availability of home-made knives and other weapons, we would like to comment briefly on these two issues.

Regarding gangs: (1) whenever possible, at least at the beginning stages of addressing this problem, one can avoid placing members of rival gangs in the same housing unit—at least until they have been able to overcome their rivalries and work out some kind of truce; (2) whenever possible, one can establish discussion or therapy groups focusing on race relations, especially as they influence gang rivalries (for example, Dr. James Gilligan was contacted by officials at the Los Angeles County Jail when they were in the midst of the worst riot in their history, between African-American and Latino gangs that were kidnapping, taking hostage, and killing each other; even in that crisis they were able to negotiate with the gang leaders and to get the violence and the riot stopped). Many more successful and effective ways to prevent gang violence exist than simply putting them all into solitary confinement, from which they learn nothing except how those who are stronger can dominate and inflict pain on those who are weaker. We should not underestimate the influence jails have as acting role models for their inmates: we know that the lesson they take away from jail is how they will treat other people once they return to the streets in their communities.

Regarding weapons: if the jails on Rikers Island concentrate on engaging in more thorough and invasive searching and screening of the inmates' visiting families and friends, in order to prevent them from bringing weapons, drugs, and other contraband into the jails, and do nothing to increase the surveillance of prison staff members (from doctors and nurses to correction officers) and other official visitors, then they will do little or nothing to diminish the flow of potentially dangerous contraband into the hands of some of the inmates. To ban contact visits from inmates' families and to place inmates in solitary confinement, as the main means of preventing this traffic in illicit weapons, while allowing official visitors to escape any meaningful searches as they enter the jails, is like attempting to prevent a boat with two holes in the bottom from sinking by plugging only one of the holes.

We say all this with the greatest respect for our new Mayor and our new Commissioner of Correction. Mayor de Blasio has eloquently articulated the need for a dramatic change in the "culture of violence" at Rikers Island—a culture that has continued for too long in a vindictive, self-defeating vicious circle. Commissioner Ponte has a most distinguished record as a prison reformer who has shown that he knows how to reduce the incidence of both solitary confinement and violence in correctional institutions, as is so direly needed around the country, but *especially* at Rikers Island. Thus, everything we have said here has been in a spirit of support for the difficult and complex work that they and you as the Board are engaged in. We hope and expect that you will take seriously the points we have outlined in this brief summary. Thank you for your attention.