



July 10, 2020

BY E-MAIL

Jennifer Jones Austin, Chair
Members of the Board
NYC Board of Correction
1 Centre Street, Room 2213
New York, NY 10007

Re: Mayor's Announcement of Working Group on Ending Solitary Confinement in NYC Jails

Dear Chair Jones Austin and Members of the Board:

The Board of Correction must immediately implement rules to fully eliminate solitary confinement in all its forms in New York City jails at its July 14 meeting or as soon as possible thereafter. There is absolutely no legitimate reason to delay any further.

Jason Echeverria died in solitary confinement at Rikers Island almost eight years ago; Bradley Ballard almost seven years ago. Kalief Browder died because of solitary confinement over five years ago. Layleen Polanco died in solitary confinement over 13 months ago. Because of the massive public outcry following Layleen's death, one year ago at its July 2019 meeting, the Board announced it would finally commence rulemaking on restrictive housing. One year later, nothing has been done.

Now, there is another mass community outcry in response to new revelations, including from the [Board's own report](#), about the outrageous level of abuse and torture the city inflicted on Layleen and how even short amounts of time in solitary confinement, measured in hours, can be devastating and deadly. In response, all that is being done is yet another announcement about some future potential rules while still no action has been taken. The Board has the power to end solitary confinement now, and it must utilize its authority to do so immediately.

By acquiescing to the Mayor's plan for a working group to develop recommendations for ending solitary confinement, the Board has abdicated its authority to regulate conditions in the city jails. There is absolutely no need for a working group, which is an affront to the independence and

authority of this Board. The Board is poised to vote on a rule regarding restrictive housing, which can and must mandate an outright ban on all forms of solitary confinement, as outlined in the [Blueprint for Ending Solitary Confinement](#) and the specific [Proposed Rules to effectuate the Blueprint](#).

We call on you to vote on such a rule without further delay at your July 14 meeting or as soon as possible thereafter, and to withdraw your support of the working group.

Make no mistake about it – we unequivocally support ending solitary confinement, in all its forms in a real and meaningful way. Last fall we put forward the aforementioned [plan](#) for doing so, and on October 29, 2019, our members petitioned the Board to adopt a [rule](#) that would eliminate solitary confinement by, among other provisions, removing lock-in exceptions to ensure all people have access to at least 14 hours out-of-cell time per day and requiring people in alternative units to have access to meaningful congregate programming without restraints for at least seven of those 14 hours. The Board responded to our petition by informing us that the Board had already initiated rulemaking on the subject of our petition.

Before voting on October 31, 2019, to formally propose the Board’s restrictive housing rule, the Board had engaged in years of extensive fact-finding. The Board then conducted two public hearings on the proposed rule and accepted written comments for three months, providing all interested parties with the opportunity to provide information, thoughts, and feedback on the proposed rule. Survivors of solitary confinement, their family members, elected officials, and advocates urged the Board to amend its proposed rule and end solitary confinement completely. Those who testified took their valuable time and emotional resources to share their devastating stories or those of their families, friends, and clients, with the understanding that this effort would spur concrete movement towards ending this torturous practice. Notably, the Department of Correction was almost entirely absent from these hearings. At these public hearings and the Board meetings that followed, Board members repeatedly stated their intention to make changes to the proposed rule in response to the testimony presented.

There is absolutely nothing stopping the Board from using the information it received during the public comment period and at subsequent meetings with stakeholders to revise its proposed rule and end solitary confinement. After years of research and fact-finding, public feedback, and stakeholder input, there is no acceptable reason for further delays.

Convening a working group unnecessarily delays the rulemaking process, and also infringes on the independence of the Board. The Board has responsibility for enacting regulations regarding the functioning of the city jails. While the Board should consult with the agencies it regulates to guide them in implementation of necessary measures to protect the human rights of people in custody, those stakeholders should not be given the power to develop the Board’s rules. That should always generally be the case, and is particularly important in this context where these two of the four

working group members have been opponents of limiting the use of solitary confinement, with the Correction Officers' Benevolent Association actively resisting any limitations on solitary confinement and the Department of Corrections [claiming](#) even as late as last month that the city does not use solitary confinement. It is incumbent upon all Board members to contribute their expertise to developing rules that reflect the concerns of all stakeholders. That process is underway and should not be derailed. The authority for the Board's essential function must not be usurped by a working group that is not empowered by the city charter or otherwise.

We call on the Board to withdraw its support for the working group immediately and to conclude the rulemaking process by voting on regulations ending solitary confinement once and for all in New York City jails.

Sincerely,

Jails Action Coalition and #HALTsolitary Campaign

cc: Margaret Egan, Executive Director