Testimony of

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Before the New York City Board of Correction

February 28, 2024

I am Rachel Sznajderman, a Corrections Specialist at New York County Defender Services (NYCDS). NYCDS is an indigent defense office that every year represents tens of thousands of New Yorkers in Manhattan's Criminal, Family, and Supreme Courts. The NYCDS Corrections Specialist Team provides a direct channel of communication with and advocacy for our clients who are incarcerated.

## I. Introduction

I want to once again thank this Board for continuing to create a robust agenda that will publicly hold the NYC Department of Correction (hereinafter "DOC" or "the Department") accountable, and shed light on the most pressing issues facing those currently detained on Rikers Island. The Board's minimum standards are crucial to the survival of any person forced to endure incarceration in the custody of DOC, and DOC's failure to adhere to them creates imminent safety risks for those both living and working in this environment. More specifically, clarifying the Department's adherence to fire safety practices is abundantly important, especially in light of last year's near-calamitous fire in NIC, and more recently, the series of fires that have erupted within Rosie's Enhanced Supervision Housing ("RESH") unit. We also welcome more guidance from Correcitonal Health Services ("CHS") on suicide prevention protocols. Our clients routinely report harrowing accounts of self-harm they have personally experienced or have immediately observed. Finally, we note that both fire safety practices and suicide prevention protocols are most acutely needed in DOC's restrictive housing units, where the rates of suicide attempts and fires are highest. To that end, the New York City Council's passage of Intro. 549A, which bans solitary confinement and current restrictive housing practices in New York City jails, could not be more timely. We are hopeful that when this legislation goes into effect, it will usher

in a more humane era of jail conditions for our clients. Nevertheless, passage of this important bill is only the first step. Successful implementation will require the Board, DOC, and CHS to work together with defense offices and advocates. Our hope is that our testimony will elucidate the necessity of altering DOC's restrictive housing practices so that we can begin work on developing new regulations to implement Intro. 549A in the months to come.

## II. Fire Safety in RESH

In late January, I visited three clients who are currently being held in RESH while their disciplinary infractions are challenged in Bronx Writ Court. Two clients in RESH Level 1 reported an incident that perfectly encapsulates why fires are sometimes set in RESH and why current RESH practices make this especially dangerous.

By way of background, during lock-in hours, detainees do not have access to clean drinking water. Rather, the only way for them to drink clean water is to have it brought to them by a Correction Officer ("CO") from the water cooler in the dayroom. Moreover, officers in RESH are difficult to access, as they are rarely stationed on the floor. Thus, since incarcerated people rely on COs in order to obtain basic necessities, such as water, those housed in RESH either go without, or find other ways to get COs' attention.

Both of the clients I met with reported that someone in their unit asked a CO for water. This person's repeated requests for water were ignored by COs for over an hour. Eventually, this person began to raise his voice, loudly begging for water. Finally, when water was still not brought to him, he eventually set a fire in his housing unit.

The CO on the unit went to his cell, put out the fire, but still refused to bring the person water. This went on for hours. When the last fire was set, the CO refused to put it out, allowing it to ravage through the unit for over twenty minutes.

Meanwhile, one of my clients was out of his cell at this time, doing the programming offered during "lock-out," which, in Level 1, requires being chained to a desk. Our client has asthma, and as the fire blazed the smoke filled his lungs. However, with his ankles chained to his chair, he could not protect himself or escape from the smoke. He began to panic, calling for help. By the time help came he had already suffered an asthma attack and required urgent medical attention.

DOC often deflects responsibility for the unconscionable number of fires that occur within its facilities and the completely haphazard, dangerously inept way these fires are addressed when they do occur. However, we note that these fires reveal the level of sheer desperation, anxiety, and neglect endemic on Rikers Island. No one should be forced to beg for hours to access clean

drinking water, urgent medical attention, or basic sustenance. We appreciate that the Department purports to be committed to at least fixing its dysfunctional fire safety apparatus, including installing functioning smoke detectors and sprinkler systems in all facilities. However, we urge the Board and the Department to recognize that creating safe, humane, dignified living conditions are critical to any fire safety endeavors.

Fortunately, we believe that Intro 549A will provide some relief on this front. Under Intro 549A, this situation would not have transpired, as those detained in punitive housing areas will be entitled to adequate out-of-cell time, where they will be free to drink clean water and have other basic needs met. Moreover, individuals in custody who are participating in programming will no longer be chained to a desk, unable to protect themselves from smoke inhalation. Thus, under Intro 549A we are confident that fewer fires will be set in the first place.

## III. Suicide Prevention Practices and BOC Report on the Use of Chemical Agents

The primary safety issue surrounding DOC's current restrictive housing practices is acute risk of self-harm created by extensive, near absolute isolation. Last week I met with a client in RESH over videoconference, and he shared that this isolation had gotten to him. When he first arrived at RESH, he was locked in his cell for multiple days on end. Eventually, the unending isolation drove him to attempt suicide. As he tied a sheet up and tried to hang himself, he reported that COs came into his cell and immediately sprayed him with chemical agents. In fact, this is not the first time I have heard that, unbelievable though it may sound, it is official DOC protocol to spray people with mace if they are attempting suicide.

We want to thank the Board for bringing attention to this inhumane practice in their most recent report on the widespread use of chemical agents in the jails. I note that the experience I described took place in early January, months after the Board's reporting, indicating that DOC continues to use chemical agents as a "suicide prevention" tool. It is impossible to fathom how the deployment of a chemical spray could be at all helpful to a person in such acute distress, and it is absolutely horrifying that this continues with frequency.

Even without a multiple day lock-in, such as the one my client endured, the experience of being in RESH is incredibly isolating. Many NYCDS clients commonly experience *de facto* 24 hour lock-ins, even when not officially ordered, by creating horrendously dangerous, abusive conditions for anyone wishing to leave their cells. For example, currently anyone who elects to leave their cells are physically chained to desks in extremely uncomfortable positions and left without assistance for hours on end. Under Intro 549A these types of inhumane conditions that force isolation will no longer be permitted, limiting the inevitable danger that comes with it.

## IV. Continued Counsel Visit Access Issues at RESH

The access to counsel issues at RESH continues to pose serious challenges to our ability to provide adequate legal representation to our clients, and to assure the safety of the legal staff who brave the chaos and unsecure conditions that exist there. Earlier this month, I myself was locked in a jail cell without my knowledge or consent while waiting for my clients to be escorted to the counsel visit area. I was told I was being brought to a separate waiting room, and before I could ask how long it would take, the officers were gone and all the doors around me were locked. There was no other human being in eyesight or earshot. My heart rate increased, my palms began to sweat, I paced back and forth across the small room, telling myself they would be back for me soon. In the end, I was only in the intake cell for 15 minutes, but it was enough to cause me to panic. It was enough to make me wonder what would happen if the officers forgot I was there, and contemplate how I would get their attention. If my experience accounts for even a fraction of what our clients go through, it is clear that New York City's restrictive housing practices are ripe for a change.

## V. Passage of Intro. 549A

After years of tireless advocacy, in January, NYC Council voted to override a mayoral veto to pass Intro 549A into law. We are incredibly grateful for the passage of this long-awaited and long-overdue legislation, which bans the use of solitary confinement in New York City, unless such confinement is necessary to de-escalate immediate conflict.

The proposed rule will replace the current, well-documented practice of involuntary locking people inside of their cells without notice or justification. DOC staff currently have complete, unbridled discretion to impose lock-ins: due to an incident, because they don't have enough staff to man the post, or simply because they feel like it. Some of the most egregious treatment of our clients takes place during these lock-ins. Medical and mental health emergencies go ignored. Food is not provided for hours, or sometimes days on end. Family members fear the worst, as without access to phones, contact with their incarcerated loved ones is suddenly interrupted without explanation.

Imposing extreme isolation is inhumane and serves no rehabilitative purpose. The practice causes severe psychological trauma that can permanently damage a person, and, thus, never be justified. But New York's current approach is especially unjustifiable. We impose isolated confinement far too broadly and routinely. Currently, solitary conditions can be imposed in response to non-violent conduct and are often imposed for far too long a period of time. Any reform that reduces the scope of this baleful practice is urgently welcome.

### A. Legal Representation During Disciplinary Hearings

Due to the current conditions and inhumanity of restrictive housing on Rikers Island, Intro 549A is New York City's desperately needed opportunity to reduce the extensive harm and loss of life that incarcerated people face. When the bill goes into effect, we must be prepared to implement it. Section 2(f)(1)(i) of Intro 549A states that, "The Board of Correction shall establish rules for restrictive housing hearing that shall, at a minimum, include [...] [that] an incarcerated person shall have the right to be represented by their legal counsel or advocate." The logistical challenges of providing legal representation require extensive planning, and should already be underway. At NYCDS, we have already begun to consider how we believe this should work, but Intro 549A squarely places the responsibility for establishing these rules with the Board. We look forward to the Board's collaboration and partnership as we determine the best course of action for implementing this crucial piece of legislation.

If you have questions about this testimony, please email correctionsspecialists@nycds.org.