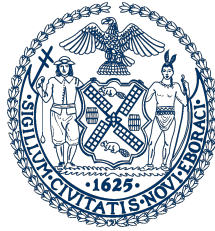


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**Testimony of City Council Member Keith Powers  
Before the Board of Correction  
Tuesday, April 13, 2021**

Thank you for the opportunity to speak today. I am City Council Member Keith Powers, Chair of the Criminal Justice Committee for the City Council. I want to first thank Chair Jennifer Jones Austin, the Board of Correction, the Mayor's task force, and everyone that helped bring us to today's hearing by speaking out on this issue and providing feedback throughout the rulemaking process.

This has been an ongoing journey in our city to ultimately achieve justice for those who have experienced the grave consequences of solitary. In 2019, following the tragic death of Layleen Polanco, City Council Speaker Corey Johnson and I called for an end to solitary confinement in our city jails. I and others, including the Public Advocate and Speaker Johnson, have advocated for the need to bring in a new disciplinary model that respects the rights and humanity of people in custody and helps reduce the violence inside our city jails. Just a few months ago the City Council held a hearing on the topic and heard from families with direct experience of the injustices caused by this system, like the family of Layleen Polanco.

The proposed solitary confinement rule from the Board of Correction is a long-overdue improvement to the current solitary confinement practices. And while I have a number of recommendations to this proposal, it is important that I recognize that we are making significant progress today. We will be leading the way for other major cities--if we do this right. This public process is extremely valuable as we work together to end solitary confinement.

Today, I want to highlight a number of areas that the Board should further address to strengthen this proposed rule. First, while the proposed rule includes a number of due process protections, it does not include legal representation for individuals in disciplinary hearings. Access to legal counsel is critical to protect the rights of people in custody. This is an extension of an individual's basic right to have counsel and should be included as part of this process.

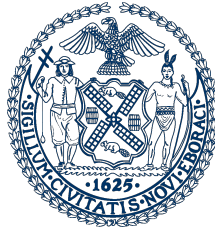
Second, as the rule currently stands, there is no hard limit on time spent in the tiered system. While the proposed rule includes periodic reviews of individuals' placement, it does not create a hard cap on time spent in the three levels--particularly in Level 2 and Level 3--and leaves too

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much discretion to keep individuals in these levels indefinitely. Definitive time limits are essential to ensure that these changes are substantive and long-lasting.

Finally, the proposed rule includes a requirement that would make individuals' progression through the three-level system contingent on participation in programming. The inconsistency of programming at City jails, including those on Rikers Island, is something my committee and the Council have worked to address over the past several years. Before moving forward with a rule that makes programming a prerequisite for moving through the tiered system, we need certainty that programming will be available and consistent.

Throughout this process, we must keep in mind that any new disciplinary model needs to be grounded in evidence that it will reduce violence, improve outcomes for individuals who go through the disciplinary system, and better prepare people for returning to their communities. We cannot live in a city where we shut individuals away with no regard for their well-being, and we also cannot live in a city where we allow violence to exist against staff or other individuals. And the current system of solitary confinement addresses neither. I am happy to see the Board take up rulemaking, at last, to move our city forward.

As the population in city jails lowers, there is a major opportunity to focus our efforts to improve individual outcomes, reduce violence, and do something new and transformative. I thank the Board for the time today and urge the Board to evaluate and update this proposal in advance of a vote to achieve true, significant criminal justice reform.

Thank you.