



July 8, 2019

Jacqueline Sherman, Chair
Members of the Board
New York City Board of Correction
1 Centre Street
New York, NY 10007

Re: Ending Solitary Confinement in NYC Jails

Dear Chair Sherman and Members of the Board,

On behalf of the Brooklyn Defender Services (“BDS”), we urge the Board of Correction (“BOC” or “Board”) to impose significant oversight and accountability on any restrictive housing by the Department of Correction (“DOC” or “Department”) and to end the use of isolation as a punitive measure in the City’s jails. We join countless impacted people and fellow advocates—in New York City and around the world—who have spoken about the harm caused by isolation. We urge the Board to close loopholes that allow DOC to make small tweaks to its practice while continuing the pervasive use of isolation: torture by another name is still torture.

For decades, the DOC’s use of isolation has been a moving target. Each time the Board or the City Council impose guidelines, restrictions, or reporting requirements, DOC shifts the program ever so slightly. The nomenclature has been equally varied: over the years, DOC has introduced “Secure,” Enhanced Supervision Housing (“ESH”), restrictive housing units (“RHU”), and many forms of segregation units. While the specifics of the units differ, their mission does not: they function with the goal of isolating people from meaningful human contact, access to services, and basic needs. The impact of these units is equally universal – the detrimental consequences of isolation, even in the short term, is well documented.

The City is no stranger to the tragic consequences of punitive isolation in our jails. At the last Board meeting in June 2019, Board members heard about the death of Layleen Polanco just days before the meeting. Ms. Polanco died nine days into a 20-day sentence in an RHU. She is not alone. Kalief Browder, Andy Henriquez, Bradley Ballard, and countless others whose names are not publicized have been confined, separated, and denied appropriate care while in isolation in our City’s jails. Some have died as a result of the harm caused by isolation, and those who survive are sentenced to deal with the long-term physical, mental, and emotional effects. We as a City can and must do better.

The Board must hold the Department responsible for its failures to care and protect people in its custody. Following intense debate over statewide legislation that would have restricted the use of solitary confinement and the tragic death of Layleen Polanco, the effect of isolation is at the forefront of people’s minds. In the past, the Board has taken great strides to reduce the use of

isolation. Once again, the Board has an opportunity to be a leader on this issue in New York and around the country by:

1. Ending the use of isolation as a punitive measure for all people throughout our City jails;
2. Promoting transparency and accountability around the use of restrictive housing in DOC;
3. Updating BOC's minimum standards and adopting clear, comprehensive guidelines for the use of any housing in DOC facilities that is more restrictive than general population, including setting limitations on who can be separated from general population, outlining clear pathways for release from any restrictive units, requiring humane and therapeutic programming in all restrictive housing, and ending all use of restraints in housing units.

The last time the Board engaged in rulemaking on this issue, in 2014-2015, the Board and the Department were hailed by press. Since then, numerous people have suffered and some have died in isolation in DOC. The Department has created a complex web of isolation units that have the potential to trap people indefinitely. DOC has delayed ending solitary confinement for 18-21 year olds. The list goes on. Despite the backslide, the Board continues to condone the Department's failures by granting—even if limiting—every one of DOC's variance requests.

The City has not gone far enough.

We call on the Board and the City to end the medieval practice of segregation and address the long-term effects of isolation. BOC has an obligation to ensure that people in our City's jails are treated humanely and are no longer suffering in conditions that the United Nations Special Rapporteur on Torture has described as a "harsh measure which may cause serious psychological and physiological adverse effects on individuals regardless of their specific conditions."¹ Without bold, decisive action, we will be adding names to the already-too-long list that includes Layleen Polanco, Kalief Browder, Andy Henriquez, and Bradley Ballard.

The Board has been a leader in pushing our City, and State, forward before and should do so again. We appreciate your willingness to engage in this critical conversation. Please contact us if we can provide further assistance. Thank you for your attention to this serious matter.

Sincerely,

/s/ Kelsey De Avila
Kelsey De Avila
Project Director, Jail Services
Brooke Menschel
Civil Rights Counsel
Brooklyn Defender Services
(718) 254-0700

c: Martha King, Executive Director, Bennett Stein, Director of Policy and Communications

¹ Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Interim Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, U.N. Doc A/66/268, ¶¶ 79 (Aug. 5, 2011).