

**Testimony before the  
New York City Council  
Committee on Criminal Justice  
Chair Keith Powers  
By  
Cynthia Brann, Commissioner  
NYC Department of Correction**

**December 11, 2020**

Good Morning, Chair Powers and members of the Committee on Criminal Justice. I am Commissioner Brann and I am joined by my colleagues Chief of Department, Hazel Jennings, Deputy Commissioner for Legal Matters, Heidi Grossman and Chief of Staff Brenda Cooke. Thank you for the opportunity to testify about the Department's role in eliminating punitive segregation for all individuals within New York City correctional facilities.

Over the past six years, the Department has been a national trailblazer in its pursuit and implementation of profound changes in the management of individuals in our custody that balance the need for safety and security in an environment that fosters engagement rather than isolation. We remain committed to continually assessing our practices and instituting further changes in the promotion of safety, engagement and rehabilitation for those in our custody. Rooted in understanding that age and health are important considerations in the disciplinary housing placement process, the Department developed housing strategies that provided meaningful disciplinary consequences for young adults and people with serious mental illness who have infringed without placement in punitive segregation. Our commitment to reforming this disciplinary practice resulted in unprecedented changes to punitive segregation in both the application and duration of sentences imposed, including the development of a tiered system of infractions and reducing the maximum length of punitive segregation to 30 days for nearly all infractions.

In evaluating further changes to the Department's disciplinary housing system, we cannot forget how far this Department has come. Just six years ago, punitive segregation was essentially the Department's primary response to infractions, with 90-day sentences often imposed for infractions. Today, punitive segregation sentences are focused mostly on violent offenses, with penalties directly proportional to the offense committed. The transformation to punitive segregation alternatives was not made overnight but was the result of several years of careful planning both internally and through conversations with BOC, CHS, and the State Commission on Correction, and in recognition of the crucial need to gain trust and acceptance from Department staff who work on the front line to keep everyone who works and lives in our facilities safe.

Instead of relying upon punitive segregation, the Department thoughtfully addressed the needs of this population and created several different alternative approaches. This includes establishing the Secure Unit (SU) and the Enhanced Supervision Housing (ESH) which are designed to focus on rehabilitating individual's violent behavior, addressing root causes of

violence, and minimizing idleness. Similarly, the Department created the Transitional Restorative Unit (TRU) aimed at managing adolescents and young adults involved in violent acts. TRU provides close supervision with individualized support plans, treatment, and incentives to encourage positive behavior. In addition, the Department established the Clinical Alternative to Punitive Segregation (CAPS) to foster collaboration between clinical and correctional staff in treating the needs of those with a serious mental illness who engage in violent behavior. The Program to Accelerate Clinical Effectiveness (PACE) was also established to support the needs of those with serious mental illness who have not engaged in violent behavior but who can benefit from a more therapeutic mental health setting.

Our commitment to reform has continued in recent years. In June 2019, the Department increased out of cell time in punitive segregation from 1 hour to 4 hours, affording individuals in this setting additional opportunities for recreation and instituting a congregate television hour. In August 2020, the Department partnered with CHS to ensure that individuals with certain health conditions are no longer placed in highly restrictive settings.

As a result of these reforms, there has been a dramatic reduction in the use of punitive segregation. The creation of alternative and supportive housing units has enabled the Department to successfully divert hundreds of individuals from punitive segregation placement. As of December 2<sup>nd</sup>, there were just 72 individuals serving sentences in punitive segregation and 22 individuals placed in the Restrictive Housing Unit, also known as RHU. These numbers stand in stark contrast to the average range of between 500 and 600 people per day in punitive segregation at the time we began instituting reforms in 2014. This reduction of over 80% in disciplinary housing placements is a clear indication of this Department's commitment to reform and our dedication to the reduction of punitive segregation wherever possible.

In furtherance of this commitment, since June of this year, the Department has worked hand in hand with other members of the Mayor's working group to develop a proposal on how we can safely end punitive segregation in New York City's jails. After months of thoughtful consideration, the working group is in the process of finalizing our recommendations, which will carefully balance the creation of a more humane system with the very real need to keep everyone, including our staff, safe from harm while in our facilities. While I do not have specific details to share at this time, I look forward to sharing more information with you on these recommendations soon.

With regards to the pre-reconsidered legislation attached to today's hearing, we share the Council's goals to using the least restrictive means when applying disciplinary actions towards violent offenders in custody. However, the reduction and elimination of punitive segregation requires careful and considerate balancing to ensure the safety of staff and people in custody. Any policy changes to this practice must be informed by correctional experts in order to ensure any decisions made do not result in dangerous and unintended consequences. We believe the best results will come from allowing the working group, which includes critical representation from our partners at the Board, the formerly incarcerated community, and the labor and

advocacy realm, to finalize its recommendations and for those to be reflected in forthcoming Board rules.

Thank you for the opportunity to testify before you this morning. My colleagues and I are happy to answer any questions you may have.



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Robert L. Cohen, M.D.  
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**BOARD OF CORRECTION**  
**CITY OF NEW YORK**  
1 CENTRE STREET, RM 2213  
NEW YORK, NY 10007  
212 669-7900 (Office)

Margaret Egan  
*Executive Director*

**Testimony of Executive Director Margaret Egan**  
**City Council Hearing**  
**December 11, 2020**

Good Morning, Chair Powers and members of the Criminal Justice Committee. I also hope you and your families are safe and healthy. Thank you for holding this important hearing today. My name is Margaret Egan and I am the Executive Director of the New York City Board of Correction. I am joined today by Board Chair Jennifer Jones Austin, Board Member Dr. Robert Cohen, and my colleague, Emily Turner, Interim Deputy Executive Director of the Board.

We are here today to talk about the ending of solitary confinement in the New York City Jail System. The Board of Correction has been developing rules on restrictive housing broadly, and solitary confinement specifically, for the better part of the last four years. In that time, the Board consulted with experts, advocates, and city officials to understand the leading research and practice and ultimately developed a proposed rule that governed all forms of restrictive housing in the jail system. Last fall, the Board approved preliminary rules. Through the winter, the Board received public comment on the proposed rule. That public comment from many stakeholders, especially the testimony people with lived experience was moving and transformative. As a result, our Board Chair, Jennifer Jones Austin, shortly after becoming Board Chair in March of this year, joined with Mayor Bill DeBlasio in June to call for an end to punitive segregation.

Punitive segregation has been proven over and over to be an inhumane practice resulting in debilitating trauma that endures, often for the remainder of a person's lifetime. It has also been shown to not be an effective tool for reducing violence in correctional facilities. The Board believes this practice must end. We believe it should be replaced with an alternative means of accountability with a focus on safety for both staff and detained persons, mental health, effective and robust programming and education, and investment in training and the well-being of employees.

Ending punitive segregation represents a significant change that requires careful consideration to ensure a system of accountability that is fair and safe for all. The Mayor and Chair Jones Austin convened a working group to develop a system of accountability that thoroughly considers and addresses the critical operational issues attendant to dismantling punitive segregation and the implementation of a more effective and humane accountability system. The working group has been led by our Vice Chair Stanley Richards and included Commissioner Brann and Just Leadership USA President and CEO DeAnna Hoskins. COBA President Boscio was also included and has been participating in working group discussions. The group was charged with developing recommendations for a system that replaces solitary confinement with a system that prioritizes safety, accountability, transparency, and support for all, staff and people in custody. It was critical to receive input from all perspectives – the Department leadership and officers, as well as persons with lived experience to ensure that the model would be progressive and practical.

The group worked diligently through the summer and early fall developing a broad model for ending solitary confinement. The Board's rulemaking committee has taken those recommendations and begun redrafting a rule that will govern restrictive housing in the jail system. The committee has nearly completed its work and we believe will propose its rule in the coming days, initiating the CAPA process for a final vote to occur in early 2021. This work has taken longer than we all desired but the Board takes seriously the complicated issues that arise in making these reforms.

Ultimately the rule that the Board proposes will seek to prioritize safety, accountability, transparency and support. These are the key principles informing and driving our work and discussions with respect to the system that will replace punitive segregation.

Paramount in our planning is safety. Safety for all. People in custody and staff. First, we believe that separating someone after a violent incident is critical. It is critical for the victim, the person who committed the violent incident and for the staff. However, this separation should not be indefinite. The best research tells us that a short period of separation, along with an individualized assessment of the core drivers of the behavior and an attendant care plan to are essential to changing behavior.

Accountability. The jail system must be able to hold people accountable for serious incidents. We believe that providing accountability is a critical tool for staff and people in custody to increase and improve safety in the jails. The new system of accountability must be based on the swift, certain, and fair principles. People should be provided with due process before being placed in any system of accountability. Their punishment, including the amount of time, should be defined and expectations should be clear and achievable.

Support. Any model that replaces punitive segregation must be centered on support for the individual. All who enter a new system should be immediately provided with an individualized support plan based on a validated assessment to identify the appropriate programming and therapeutic supports for that individual. This plan should be centered on addressing the root cause of violence and behavior and all the requisite services should be provided so that person can be successful in their care plan.

Transparency. For any system to be successful, all must understand and buy into the core principles. It will be important that management clearly articulates, trains, and manages both uniform and non-uniform staff, to the model's goals and principles. It will also be critical for the goals, principles and expectations to be clearly communicated to people in custody – both before and after any incident. In order for people to be successful in the model, they will have to understand the expectations and have an opportunity to meet them. And when they do, they must be rewarded accordingly.

Finally, the Board's oversight responsibility is also essential to transparency. Requiring the Department and Correctional Health Services to track and report information necessary to monitor compliance with the rules will promote transparency and compliance. Our ability to independently assess and publicly report on the Department's fidelity to the rule will be essential to providing transparency for the people in the model – both people in custody and staff. We also believe the City should conduct an external evaluation to ascertain the impact of the model on individual behavior and health as well as the systemic impact on infractions and violence. Such an evaluation can provide the City with invaluable information on the impact of this new model and other jurisdictions with critical information on a new, innovative, humane approach to safety and accountability.

The Board would agree that this process has taken significantly longer than desired. Having heard from the public last winter, it was clear that the proposed rule required that more be done to end punitive segregation. The Board's rulemaking committee has been working diligently, meeting regularly to address the complicated issues that have arisen as we have develop this new model. We have been working closely with City leaders and continued to seek advice and counsel from experts, including people with lived experience, and correctional management and oversight expertise from across the country. We believe that the Board's final rule will evidence a shared desire to reform punitive segregation in a way that achieves our goals of more humane treatment, accountability, and safety for all.

Thank you. We are happy to take your questions.

Testimony Submitted to City Council in Support of *Bill # 2173-2020*

Robert L. Cohen, MD; Member NYC Board of Correction

Thank you Chairman *Powers*, *Council Members: Alicka Ampry-Samuel, Darma V. Diaz, Robert F. Holden and Carlina Rivera* and *Bill sponsors Daniel Dromm, Public Advocate Williams, Council Members Lander, Reynoso, and again Councilmember Rivera*

*My name is Bobby Cohen. I am a physician. I have been a Council appointee to the NYC Board of Correction since 2009.*

More than six years ago the Board of Correction ended solitary confinement for those between 16 and 21. Prior to that bill, close to 25% of young adults were kept in solitary confinement by the Department of Correction. We also ended the option of placing seriously mentally ill persons in solitary.

I had hoped the Board of Correction would have passed its Restrictive Housing rule by now. Since we have not yet passed our Rule, which will cover very similar ground to the Council Bill, I appreciate the Council's commitment and continued leadership to ending solitary and I support this bill.

This action by New York City is long overdue. The Board of Correction resumed rulemaking last Winter because of the Council and the community's concern that our initial Rule did not end solitary, just limited it to 15 days. We resumed rulemaking to end solitary with the Mayor's support this year, but our timetable keeps getting pushed back. We have not yet published our Rule, although I am confident that we will, and will provide the support asked for in the Council's legislation.

We must end Solitary Confinement as soon as possible. During the years of the Board's Restrictive Housing rulemaking, thousands have suffered in solitary and were humiliated and

punished by being shackled and chained. These practices continue today. They must end.

Your bill will end these torturous practices. The Board's rule will also end routine punitive shackling. I know that there are many advocates here today who have comments and suggestions about the Council's bill. I look forward to hearing them.

As the Council's representative on the Board of Correction, and as a New Yorker, I'm very proud to endorse your effort to end solitary. I honor you for your proposal.

Robert L. Cohen, MD  
Member NYC Board of Correction  
December 11, 2020



# **“Oversight - Ending Solitary Confinement in New York City Jails”**

**COBA PRESIDENT BENNY BOSCIO JR’s TESTIMONY BEFORE THE  
NEW YORK CITY COUNCIL COMMITTEE ON CRIMINAL JUSTICE**

**Keith Powers  
Chairman**

**December 11, 2020**

**NEW YORK CITY COUNCIL**

Good morning Chairman Powers and the distinguished members of your committee. My name is Benny Boscio Jr. and I am the President of the Correction Officers' Benevolent Association, the second-largest law enforcement union in the City of New York. Our members, as you know, provide care, custody, and control of over 4,700 inmates daily in the nation's second-largest municipal jail system.

Today's hearing focuses on a discussion of one of the most reckless and dangerous pieces of legislation to ever come before this committee- a proposed ban on punitive segregation. With the limited time I have, I want to set the record straight on the false narrative about what you and your colleagues refer to as "solitary confinement" and what Correction Officers and Correction professionals around the nation refer to as "Punitive Segregation."

Solitary confinement implies that inmates in our custody are kept in a window-less cell for 24 hours a day, are fed bread and water, and are deprived of having access to the law library, medical clinic, or recreation time. Despite what the Legal Aid Society proclaims and despite what all the inmate advocacy groups tell you when you meet with them, we do not have solitary confinement in our jails. We are a jail system not a prison system. The section in the administrative code in the City's Charter, which this bill is seeking to amend, doesn't even reference "solitary confinement." It references punitive segregation. This bill would insert a false definition into law based solely on the narratives driven by inmate advocates and the "Close Rikers" movement.

So what exactly is punitive segregation? Punitive segregation is simply a jail within a jail. It enables Correction Officers to physically separate assaultive inmates from non-violent inmates. Inmates in punitive segregation are in fact housed in housing areas with windows, with access to the same food as everyone else, with access to the law library and recreation time and the medical clinic.

How do we know punitive segregation works? Historically when punitive segregation was employed for all assaultive inmates regardless of age, we were able to keep the violence low. In 2016, when Mayor de Blasio unilaterally ended punitive segregation for inmates 21 and under, we saw a major spike in violence. That violence continues today. I would hope that as members of the Committee on Criminal Justice, each of you would take the time to review the jail violence indicators contained in the annual Mayor's Management Report.

If you haven't, the report reveals a steady increase in jail violence year after year since 2014. In the most recent report alone, published in September of this year, stabbings and slashings are up 16%, assaults on Correction Officers are up 15% and inmate on inmate violence is up a staggering 284%. Do these figures bother you? Do these figures perhaps illustrate the intensity of the violence my members face every day? Have any of you even taken the time to visit a punitive segregation unit? Because before you vote on this sweeping legislation, you should do your homework. You should examine the impact this will have on the safety and security of our jails. It will have an enormous impact on the lives of many officers who live with their families in your council districts.

Some of you have not even taken the time to meet with us to seek our input on how this legislation would affect literally thousands of lives in our jails. Some of you will vote to pass this bill to satisfy the inmate advocacy groups, who come in and out of your offices like a revolving door, while we can't even set foot in the door.

We took an oath to serve and protect this city, but who on the City Council is protecting us? I have asked to meet with Speaker Corey Johnson and he refuses to acknowledge my request. He is the second-most powerful official in the City of New York and yet he refuses to meet with the leader of New York City's second-largest law enforcement union. I can't help but think if I was a white union leader and if my members were mostly white instead of Black and Hispanic, that we would be at least afforded a single meeting. That we would at least be acknowledged as being one of the most important stakeholders in the City's criminal justice system.

So on behalf of the Correction Officer who was slashed across his arm on Thanksgiving, on behalf of the female Correction Officer who was stabbed in the hand a month before that, on behalf of the Correction Officer who had his nose and eye socket broken before that, and on behalf of the thousands of Correction Officers assaulted and splashed in the face by inmates using cocktails of urine, feces, and blood, for the past six years, I ask you and your colleagues in the Council, as well as the Speaker, if you remove this tool to protect us and non-violent inmates from violent offenders, what do you intend to replace it with?

What consequences, if any, should remain in place when officers and inmates are attacked with impunity. A time out? No Game Boy use for a few hours? 20 hours outside of their cells? Our use of punitive segregation has been so diminished already, which is why you see such a steep rise in assaults on our members. To remove this completely will significantly increase the risks of one of my members or an inmate getting killed at the hands of another inmate. Is that a risk you are willing to take?

This bill is unacceptable to us and it should be unacceptable to every New Yorker who believes in protecting the victims of the predators we have in our jails. Instead of rushing to pass this along to the full City Council, I ask you to meet with us. Take a tour with us. Speak to the Officers who have been victimized by assaultive inmates. Some of them are testifying today. Do your due diligence. The safety of your constituents, no matter which side of the bars they're on, should always come first.

With that said, I'm happy to answer any questions you may have.



# **“Oversight - Ending Solitary Confinement in New York City Jails”**

**CORRECTION OFFICERS’ TESTIMONY BEFORE THE NEW YORK  
CITY COUNCIL COMMITTEE ON CRIMINAL JUSTICE**

**Keith Powers  
Chairman**

**December 11, 2020**

Good morning Chairman Powers and the members of your committee. I am a New York City Correction Officer with four years on the job.

I have never testified at a City Council hearing but the issue at hand is far too important to remain silent.

Several months ago, while working at a jail on Rikers Island, an inmate melee began to erupt in a housing area. Within a matter of seconds, I quickly intervened to break up the fight. I was surrounded by 15-20 inmates, all of whom were members of the same gang.

I ended up getting stabbed in my left hand with a long, sharp weapon which had to be removed by doctors. I have not been back to work since this happened but I have been in and out of physical therapy and still can't fully use my hand. I am also seeing a therapist to deal with the continued mental and emotional trauma this attack has caused me.

I am here today to ask each one of you, as well as Council Speaker Corey Johnson and Council Member Dromm and the other sponsors of this legislation, what they plan to do with violent inmates like the one who stabbed me? Do you and your colleagues believe it is humane to keep violent inmates in the same housing areas as non-violent inmates? How many Correction Officers did any of you speak with prior to this hearing?

Before voting on this legislation, I ask you to consider my story and the stories of so many Correction Officers like me, who have endured vicious assaults by inmates, sometimes more than once.

I'm asking you to oppose this ban on punitive segregation and to instead, support us and protect us if you expect us to be able to protect the inmates.

Thank you



# **“Oversight - Ending Solitary Confinement in New York City Jails”**

**CORRECTION OFFICERS’ TESTIMONY BEFORE THE NEW YORK  
CITY COUNCIL COMMITTEE ON CRIMINAL JUSTICE**

**Keith Powers  
Chairman**

**December 11, 2020**

Good morning Chairman Powers and the members of your committee. I am a New York City Correction Officer with three years on the job.

Last May, while working at a jail on Rikers Island, I was sexually assaulted by an inmate who is in jail on an attempted rape charge.

I had simply instructed the inmate to report to the medical clinic to receive his medications. He refused. Instead, he told me "I'd rather stay here with you." Within minutes he grabbed me from behind, slammed me up against the wall using his body to pin me down while he aggressively grabbed my breasts and vagina.

To this day I remain traumatized from this incident am seeing a therapist to deal with the continued mental and emotional trauma this attack has caused me.

I am here today to inform you that the inmate who assaulted me and every inmate who assaults my fellow officers belongs in punitive segregation. Many of you think punitive segregation is some form of torture. It is not. It's a tool we use to separate violent predators from the rest of the population. You don't believe there should be any consequences for inmates who commit crimes behind bars. You believe that officers who have been attacked and even inmates who have been attacked should continue to be exposed to their assailants. Isn't that some form of torture?

Before voting on this legislation, I ask you to consider my story and the stories of so many Correction Officers like me, who remain traumatized from these attacks and will wear the mental scars from these incidents for the rest of our lives.

I'm asking you to oppose this ban on punitive segregation and to help us keep the city's jails safe for everyone.

Thank you.



# **“Oversight - Ending Solitary Confinement in New York City Jails”**

**CORRECTION OFFICERS’ TESTIMONY BEFORE THE NEW YORK  
CITY COUNCIL COMMITTEE ON CRIMINAL JUSTICE**

**Keith Powers  
Chairman**

**December 11, 2020**

Good morning Chairman Powers and the members of your committee. I am a New York City Correction Officer with six years on the job.

In the last two years, I was assaulted twice by two different inmates. In 2019, an inmate strangled me and attempted to rape me. This year, an inmate punched me in the face.

I am here today to inform you that the inmates who assaulted me belong in punitive segregation. This isn't about torture. This isn't about inhumane treatment to a group being victimized. I'm the victim. My attackers should face consequences for attacking me. If they attempted to rape me or punch me on the street, every one of you would agree they should be arrested immediately. But when they commit the very same crimes behind bars, you don't want them to face any consequences. That's outrageous!

Before voting on this legislation, I ask you to consider my story. I ask you to seriously consider the consequences of your vote. Will you accept responsibility if I get assaulted a third time? Will Council Member Dromm accept responsibility? Will Speaker Johnson accept responsibility?

In closing, I'm asking you to oppose this ban on punitive segregation and to help us keep the city's jails safe for everyone. The lives of Correction Officers and those in our custody are at stake.

Thank you.



# **“Oversight - Ending Solitary Confinement in New York City Jails”**

**CORRECTION OFFICERS’ TESTIMONY BEFORE THE NEW YORK  
CITY COUNCIL COMMITTEE ON CRIMINAL JUSTICE**

**Keith Powers  
Chairman**

**December 11, 2020**

Good morning Chairman Powers and the members of your committee. I am a New York City Correction Officer with 5 years on the job.

A few years ago, a couple inmates refused my instructions to leave a housing area. They began fighting with each other. I intervened to break up the fight and while this was happening, an inmate came from behind me and slashed me in my ear.

I am here today to inform you that inmates like the one who assaulted me belong in punitive segregation. What kind of message do you think it sends to these assaultive inmates when they learn punitive segregation is banned? When they learn that they will face virtually no consequences for their crimes. Don't our rights matter to you? Doesn't our safety matter to you?

Before voting on this legislation, I ask you to consider my story. I ask you to seriously consider the consequences of your vote. Many of your colleagues on the Council have never stepped foot in one of our jails, yet they will cast their vote based upon a lot of misinformation and very little facts.

In closing, I'm here to tell you that facts matter. Our lives matter. I'm asking you to oppose this proposed ban on punitive segregation and help us keep the city's jails safe for everyone. The lives of me and my fellow Correction Officers and those in our custody are at stake.

Thank you.



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**CORRECTION OFFICERS’ TESTIMONY BEFORE THE NEW YORK  
CITY COUNCIL COMMITTEE ON CRIMINAL JUSTICE**

**Keith Powers  
Chairman**

**December 11, 2020**

Good morning Chairman Powers and the members of your committee. I am a New York City Correction Officer with 3 1/2 years on the job.

Last month, I was trying to bring an inmate to the dayroom in my jail. The inmate became resistant and then suddenly smacked my head into the iron gate twice and started choking me. One of my eyes was cut open and I sustained additional injuries to my throat and neck and still have difficulty swallowing.

I am here today to inform you that inmates like the one who assaulted me belong in punitive segregation. We must have the ability to physically separate violent inmates who commit these types of assault. I know you are hearing today from some of my fellow officers who have also been assaulted. But the reality is there are literally thousands of stories of Correction Officers who have been viciously assaulted. I have yet to see a piece of legislation from this council that seeks to protect our safety.

Before voting on this legislation, I ask you to consider my story. I ask you to seriously consider the consequences of your vote. At the end of the day, when more officers get assaulted after this ban is in place, what will you do then? Are we just supposed to be the sacrificial lambs in this politically driven legislation?

I would argue that every council member who votes in favor of this bill should explain to us why the rush to pass this bill and why now?

In closing, I'm here to tell you that facts matter. Our lives matter. I'm asking you to oppose this proposed ban on punitive segregation and help us keep the city's jails safe for everyone. The lives of me and my fellow Correction Officers and those in our custody are at stake.

Thank you.



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**CORRECTION OFFICERS’ TESTIMONY BEFORE THE NEW YORK  
CITY COUNCIL COMMITTEE ON CRIMINAL JUSTICE**

**Keith Powers  
Chairman**

**December 11, 2020**

Good morning Chairman Powers and the members of your committee. I am a New York City Correction Officer with 5 years on the job.

Last May, I was relieving another officer so he could have a meal. At one point an inmate requested that I remove the garbage from his cell. As soon as I complied with this request, three inmates rushed me and jumped me from behind and began hitting me. One of my teeth was knocked out and I sustained a laceration to my arm requiring five stitches. If not for another officer rushing to my aid, my injuries could have been far worse.

I am here today to inform you that inmates like the ones who assaulted me belong in punitive segregation. If you truly care about our safety and the safety of those in our custody, you will not support this proposed ban on punitive segregation.

We must have the ability to physically separate violent inmates who commit these types of assaults. If we are unable to do this, how do you expect us to deal with inmates who prey on us and on the non-violent inmates? I didn't take this job to get rich but I also didn't sign up to have my life threatened on a daily basis. My safety should matter to you, but it seems you are only concerned with protecting those who commit violence against Correction Officers and other inmates. What will it take for you to start taking our lives seriously?

Before voting on this legislation, I ask you to consider my story. I ask you to seriously consider the consequences of your vote.

Thank you.



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Separating dangerous and violent criminals from the rest of those in custody is a tool used in NYC jails to protect both the incarcerated and Correction Officers alike.

Speaker Corey Johnson and the City Council's proposed legislation to end punitive segregation is endangering the lives of every person who lives and works in our jails. This badly misguided idea is reckless, irresponsible and could end up with someone getting killed.

Perhaps no issue concerning Corrections is more misunderstood by our City Council and the general public than the distinction between Solitary Confinement and Punitive Segregation. Solitary Confinement - as seen on TV or as experienced in "supermax" prison facilities - is nothing like Punitive Segregation as it is used in the NYC DOC. Punitive Segregation is a penalty imposed upon mostly violent inmates after due process hearings for infractions while being held in the DOC's custody.

The New York City Department of Correction is a jail system, not a prison system. The average stay of an inmate incarcerated on Rikers Island is 56 days, not 25 years to life.

Correction Officers are at the front-line protecting inmates and those who work within the jails from violent offenders. In just the past month, a female Corrections Officer was stabbed in the hand. Other Corrections Officers have been punched in the face and one Correction Officer had their nose broken.

There is a balance between the amount of positive tools available within the jails to assist in rehabilitation and reducing recidivism with tools for promoting discipline and good order within the institution.

Punitive segregation is one of the most non-violent and non-adversarial tools in Corrections for enforcing rules and regulations. In 2014, COBA wrote extensively about the risk of limiting punitive segregation as a tool to control inmate criminal behavior within the penal system. COBA wrote if punitive segregation was limited, "It would significantly increase violent confrontations between correctional personnel and inmates and ensure many more serious injuries on both sides.

We believe that a crime is a crime no matter where it's committed. We are demanding that Speaker Corey Johnson stop putting our lives in jeopardy!

COBA MAIN OFFICE

75-01 31st Avenue, Lower Level, East Elmhurst, N.Y. 11370 • T: 718.545.COBA [2622] • F: 718.545.2668

[www.cobanyc.org](http://www.cobanyc.org)





1. Sandra Boscio, 10990
2. Benny Boscio Jr, 10990
3. Gabriel Rozario, 1206
4. swaggart julien, 11230
5. Gabriel Rozario, 1206
6. ErikaErika LoCicero, 10465
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- 1166. Noressa Kenton, 11213
- 1167. Anthony Gaines, 11413
- 1168. Carlson Adams, 11704
- 1169. Simod Covington, 11758
- 1170. Moise Rosado, 10461
- 1171. Shauntese Graham, 11221
- 1172. Stephanie Taibi, 11414
- 1173. Eddie Taibi, 11414
- 1174. Alason Henry, 11414
- 1175. Kristina Fors, 11427
- 1176. Sean Brophy, 11561
- 1177. Christina Lewis, 11726
- 1178. Breck Spanier, 33713
- 1179. Bernadette Uneberg, 11729
- 1180. Lloyd Reid, 10553
- 1181. Teisha Ortiz, 11727
- 1182. Christine Morgan, 11203
- 1183. JAmar Mcmorris, 10466
- 1184. Shanicwa Briggman, 11207
- 1185. Karen Ragunanan, 11234
- 1186. Desiree Ruiz, 11743
- 1187. Antonio Washington, 10466
- 1188. Michele Solivan, 11550
- 1189. Windy Boodram, 11510
- 1190. Telly Brun, 11722
- 1191. Michael Jones, 11412
- 1192. Ricardo Quinones, 10306
- 1193. Greg Hunt, 10023
- 1194. Ronald Parabdin, 11580
- 1195. Barbara Engel, 11004
- 1196. Kieanna Primm, 11727
- 1197. Aja Auguste, 11221
- 1198. Delano Griffiths, 11580
- 1199. Tyrell Gaines, 11207
- 1200. Damien Golding, 11550
- 1201. Michelle Goede, 11436
- 1202. Michelle Leslie, 11225
- 1203. Roddy Richardson, 10310
- 1204. Cerissa Vultaggio, 11354

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- 1206. Akeem Adams, 10473
- 1207. Rondell braithwaite, 11203
- 1208. Lunick Augustave, 11236
- 1209. Tyler Goldberg, 11710
- 1210. Loctamar Compere, 11212
- 1211. Marie Dufour, 11234
- 1212. Michelle Reeves, 11207
- 1213. Lisa Gonzalez, 11581
- 1214. Bryan Williams, 11226
- 1215. Veronica Smith, 11429
- 1216. Joseph Folks, 11429
- 1217. Steven Walker, 10303
- 1218. Danisha Zabramba, 10466
- 1219. Curlene hunte, 11204
- 1220. Raul Valles, 11421
- 1221. Jamal Bailey, 10451
- 1222. Sharnal Robinson, 11207
- 1223. Angelo Jamieson, 11722
- 1224. Jeffrey Primus, 11236
- 1225. Denise Thomas, 32218
- 1226. Ana Stewart, 11413
- 1227. Agustine Ayala, 10473
- 1228. Anthony Moreno, 33544
- 1229. Waymond Isaacs, 10990
- 1230. Javel Rabel, 11411
- 1231. Linda KOSILLA, 33322
- 1232. Robert smalls, 11361
- 1233. Darrin Coleman, 11435
- 1234. Dawin Bernadin, 11203
- 1235. Roneque Shaw, 11575
- 1236. Stanley Milstein, 10312
- 1237. Nestor Velez, 10461
- 1238. Vaughn Harper, 11553
- 1239. Christopher Aupont, 11413
- 1240. Molly Kissane, 11379
- 1241. Yris rivera, 11208
- 1242. Bobby Seabrook, 11413
- 1243. Jose Hernandez, 10541
- 1244. Danielle Seth, 10475
- 1245. michael mccabe, 11561
- 1246. Manuel Torres, 32713
- 1247. Miguel Rosso, 10710
- 1248. Shirlett Elliston, 11741-2013
- 1249. Garrick Elliston, 11741
- 1250. Carlton Newton, 11411
- 1251. Erving Adjokatcher, 11433
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- 1254. Nicole 7186843725, 10465
- 1255. Martin Williams, 34772
- 1256. Nicole Young, 10465
- 1257. Aleksander Maciag, 11375
- 1258. D Ricketts, 11236
- 1259. Mark McIntosh, 11413
- 1260. Shelly Reed, 10475
- 1261. Coretta Fearon-Meeks, 10940
- 1262. Stacy Washington, 29715
- 1263. Christel Vasquez, 11501
- 1264. Michelle Vito, 11003
- 1265. Tara Ricardo, 11422
- 1266. Gareth Brooks, 19734
- 1267. Amanda Valentin, 10462
- 1268. Alan Hoepelman, 11729
- 1269. Kevin Henao, 11714
- 1270. Michelle Rice, 10303
- 1271. Angela Williams, 10029
- 1272. Devon Williams, 11236
- 1273. Monika Mlynarczyk, 11375
- 1274. Tachanna Waldron, 11422
- 1275. Vincent Bardouille, 11208
- 1276. Chad Hayden, 11510
- 1277. Rozetta Thorbourne, 11433
- 1278. Keanu Rivera, 10460
- 1279. Anthony Walcott, 10466
- 1280. Cunhal Merilus, 11520
- 1281. Waylon Gooding, 11722
- 1282. Giovanna Velez, 11236
- 1283. Danita Bacchus, 11550
- 1284. Dorothy Purtill, 12590
- 1285. Harris N, 10462
- 1286. Lamont Brown, 10927
- 1287. Stephanie Whitaker, 10940
- 1288. Raisha Hernandez, 10541
- 1289. Joffreisy Vizcaino, 10474
- 1290. I Contreras, 10473
- 1291. ALDWIN PORTER, 11413
- 1292. Jose Ventura, 11704
- 1293. Robin Blenman, 11239
- 1294. Laydon Pierce, 10918
- 1295. Tamara Roberts, 11224
- 1296. Jose Lopezmacias, 11501
- 1297. Michael Sanchez, 10455
- 1298. Antonio Cardoso, 11501
- 1299. Diego Carmona, 10472
- 1300. Julius Williams, 12550

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- 1306. Michelle Frazier, 11213
- 1307. Lisamarie Menendez, 11727
- 1308. Demekia Dia, 11207
- 1309. Nargelis Colon, 11434
- 1310. Shaqueena Witherspoon, 11238
- 1311. Barth Laguerre, 11210
- 1312. Thomas Abdul, 11206
- 1313. Roberto Fernandez, 10032
- 1314. Robert Moody, 11434
- 1315. Pedro Garcia, 10993
- 1316. Jessica Hanshaw, 11207
- 1317. Jesus Sanchez, 18103
- 1318. Mackson Polidor, 11236
- 1319. Santiago Fernandez, 10032
- 1320. Chiola Parker, 11213
- 1321. Althea Sandiford, 11717
- 1322. Royan Brown, 10467
- 1323. Monique Brown, 19934
- 1324. Timothy MCGroary, 11742
- 1325. Gloria Johnson, 11427
- 1326. Latif Cornelius, 10030
- 1327. Edward Larsen, 11767
- 1328. Joan Cordero, 10462
- 1329. Bernard Davis, 10301
- 1330. Cindy Davis, 10916
- 1331. Bernard Davis, 10301
- 1332. Jason Hurd, 11213
- 1333. Ronald Reid, 11226
- 1334. Amanda Simpson, 11580
- 1335. Davina Atkinson, 11413
- 1336. Leandro Paulino, 10461
- 1337. Steven Reynolds, 10567
- 1338. Will Francisco, 10467
- 1339. Racine Hyppolite, 11378
- 1340. Tiffany Peoples, 11772
- 1341. Delasha Gallant, 11510
- 1342. Shay Goring, 10461
- 1343. Winston McLEOD JR, 11236
- 1344. Nickolas DeVastey, 11411
- 1345. Carmine Daleus, 11369
- 1346. Jadine Harris, 11434
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- 1350. Hylton Harris, 11434
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- 1352. Natalie Kwakye, 10458
- 1353. Miriam Guity, 11412
- 1354. Craig Nico, 10312
- 1355. Durrell Wilson, 11691
- 1356. Willene Bynum, 11701
- 1357. Eric Marrero, 34610
- 1358. Tameeka Downes, 10940
- 1359. Rich Spaulding, 11207
- 1360. Sandra Herrera, 11787
- 1361. Dani Eng, 10017
- 1362. John McKee, 11580
- 1363. Ivy McKee, 11580
- 1364. Herminio Bourdier, 33598-3704
- 1365. Jimmie Dickinson, 11213
- 1366. Dickens Apont, 12603
- 1367. Anne Brophy, 29576
- 1368. Tracie ann Francis, 11427
- 1369. Neil Bedasee, 11428
- 1370. Richard Economos, 11385
- 1371. Robert Kauer, 10930
- 1372. Theodore Robinson, 11234
- 1373. Brigitte Naggar, 11355
- 1374. Tyson Jones, 12549
- 1375. Alex Zhu, 11229
- 1376. Bruce Boyd, 11717
- 1377. Hickman Simmons, 11411
- 1378. Angel Perez, 11729
- 1379. Paul Zinskie, 11694
- 1380. Ariel Candelario, 11209
- 1381. Robert Garrigan, 32940
- 1382. Lancedale Calderon, 10977
- 1383. Eric Payne, 11217
- 1384. Malcolm McQuillar, 11427
- 1385. Taylor Dockstader, 12189
- 1386. Jun Peng Luo, 10002
- 1387. Simon Huie, 11710
- 1388. John Gaynor, 10304
- 1389. williams brittney, 11212
- 1390. Lee Shepherd, 10036
- 1391. Robert Montes, 10930
- 1392. Jane Stein, 10011
- 1393. Gerard Hayde, 10019
- 1394. Nazia Hawlader, 11967
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- 1396. Tyler Strange, 11235

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- 1402. Jenny Zheng, 11237
- 1403. Samuel Martinsz, 11417
- 1404. PAULA OPPONG, 10475
- 1405. Sam Yee, 10475
- 1406. Rafael Figueroa, 11234
- 1407. Rosa Flores, 11741
- 1408. Emiel Henry, 10466
- 1409. Reinaldo Colon, 10954
- 1410. Yvette Torres-Schwartz, 11217
- 1411. Juan Rivera, 10312
- 1412. Christopher Hawkins, 11418
- 1413. Rebecca Rivas, 11717
- 1414. Jose Velez, 10314
- 1415. Esmeralda Martinez, 11375
- 1416. Albin Duclet, 10992-1428
- 1417. Albin Duclet, 10992-1428
- 1418. Alexander Diaz, 10469
- 1419. Audryna Louis, 11520
- 1420. Hector Mendez, 10530
- 1421. Johnny Acevedo, 10973
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- 1423. Susan Reingold, 11763-4103
- 1424. Jorge Garcia, 10011
- 1425. Wayne Wade, 11214
- 1426. Robert Adames, 11375
- 1427. Ashley Goldin, 11706
- 1428. Kiley Radie, 10950
- 1429. Natalie Martinez, 11706
- 1430. Rosa Flores, 11741
- 1431. Virgil Charles, 11520
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- 1433. Matthew Elder, 7002
- 1434. Maribell Benavides, 11717
- 1435. Daniel Tineo, 10467
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- 1437. Edward McGee, 11213
- 1438. Michelle Gandley, 11741
- 1439. Kellie Barrett, 11379
- 1440. Johanna Freire, 11417
- 1441. Akima Brathwaite, 11208
- 1442. Ryan Johnson, 11103
- 1443. Nicholas Foy, 11368
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- 1450. Keith Gibson, 11580
- 1451. Keanna Smith, 11433
- 1452. Steven Acosta, 10921
- 1453. George Finnie, 11420
- 1454. Kalif Diallo, 10460
- 1455. Gregory Marcelle, 11207
- 1456. Philip Cowcer, 11715
- 1457. Cody Beck, 11768
- 1458. Danna Purnell, 11411
- 1459. Nick Caracciola, 11714
- 1460. Deborah Hobson, 10458
- 1461. Wanda Roldan, 11209
- 1462. John Keenan, 11782
- 1463. Steven Pryor, 11106
- 1464. Adriana Mediavilla, 11207
- 1465. Mary Johnson, 8053
- 1466. Angel Resto, 10704
- 1467. Paul Ruiz, 11726
- 1468. Delly Chaparro, 11209
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- 1470. Bill Schafer, 11701
- 1471. William Simmons, 11238
- 1472. Nancy DeRupo, 11763
- 1473. Chabert Eugene, 11229
- 1474. Rinaldo Chambers, 11226-4883
- 1475. Jennie Thompson, 11040
- 1476. J Richardson, 11510
- 1477. Maria Mediavilla, 11207
- 1478. Antonia Pinto, 11207
- 1479. Kashka Tittle, 11207
- 1480. Chavalier Meyers, 11422
- 1481. Tami Lee, 11772
- 1482. James VanWinckle, 11379
- 1483. Stephanie Brown, 11953
- 1484. Lloyd Gray, 11225
- 1485. Edward Reigadas, 10036
- 1486. Langford Henderson, 11373
- 1487. Chris Hendrickson, 10461
- 1488. Ramon Marrero, 11435
- 1489. George Correa, 18436
- 1490. Robert Walters, 11104
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- 1498. Kenisha Taylor, 10552
- 1499. Sun Tai, 11358
- 1500. LUIS NIEVES, 11211
- 1501. Yuseff Carr, 10025
- 1502. Robert Calleja, 11727
- 1503. E Harris, 11208
- 1504. Maxine Carr, 11580
- 1505. Irving Caraballo, 10941
- 1506. Derrick Jackson, 10552
- 1507. Theo Kos, 7307
- 1508. Marc Treshan, 11746
- 1509. Dwayne Simon, 11236
- 1510. Edward Henderson, 27856
- 1511. Jasen Tompkins, 11801
- 1512. Frank Engel, 11426
- 1513. Ray Holman, 11413
- 1514. Karim Morgan, 11552
- 1515. Adrienne Byam, 11423
- 1516. William R. Williams III, 11418
- 1517. Phil Rizzo, 11542
- 1518. alex fuentes, 738
- 1519. Geoff Mottram, 10011
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- 1521. Maureen Klersy, 11949
- 1522. Christian Chamberlain, 11766
- 1523. David Crombie, 11713
- 1524. Charles Palmenteri, 11727
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- 1526. Olene Smith, 11368
- 1527. Elizabeth Flores-Cruz, 11706
- 1528. Garry Pelissier, 11412
- 1529. Frank Ciaccio, 10528
- 1530. Cheryl Mise, 11413
- 1531. María Arce, 11726
- 1532. Fateema White, 11212
- 1533. Ckaudia Flores, 11377
- 1534. Jose Muyet, 10801
- 1535. Travis Powell, 11365
- 1536. Leteshia Scott, 10940
- 1537. Selso Perez, 10465
- 1538. Paul Floess, 11377-5902
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- 1546. Ana Garcia, 10453
- 1547. Charles Perez, 11542
- 1548. Dennis KELLY, 10022
- 1549. Lanier Rogers, 10471
- 1550. Shacoya Barnes, 11580
- 1551. Miguel reyes, 10452
- 1552. Quitze Garcia, 11235
- 1553. Tanya Davis, 10940
- 1554. E. Chukwukere, 10463
- 1555. Ronnie Lingo, 11105
- 1556. Rose Williamd, 11003
- 1557. Joseph Mena, 10312
- 1558. Angie Rodriguez, 10940
- 1559. China Crosby, 10475
- 1560. Cornell Evans, 10940
- 1561. Josh Wimberly, 11798
- 1562. mary Riordan, 11949
- 1563. Lisa Dagostino, 10536
- 1564. Christopher Sheridan, 11771
- 1565. Eric Johnsen, 11727
- 1566. Christopher Diplan, 11727
- 1567. Mildre Santiago, 11727
- 1568. Shirley Hernandez, 10035
- 1569. Paul Polizzi, 11758
- 1570. Andre Atkinson, 10552
- 1571. Ronny Almonte, 10452-4440
- 1572. Veronica Gates, 10037
- 1573. kenneth Barnes, 11224
- 1574. Rich Palmer, 10547
- 1575. Jason Webber, 11726
- 1576. Edwin Aponte, 18222
- 1577. Climic Browner, 11234
- 1578. Luis Inoa, 11726
- 1579. David Zaveckas, 11787
- 1580. Edward Lanza, 10309
- 1581. Juan Calderon, 10461
- 1582. Carlos Nunez, 10031
- 1583. Fernandez Felix, 10019
- 1584. Aiysha Reedy, 11212
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- 1593. Charles Paris, 12550
- 1594. matthew harris, 33411
- 1595. Sthefanie Bello, 12586
- 1596. Shaun Toner, 11233
- 1597. LynMarie Torres, 10453
- 1598. Reynold Dimanche, 10475
- 1599. Kevin Fitch, 30044-4863
- 1600. Zorica Piria, 10562
- 1601. Earl Mitchell, 11434
- 1602. Ray Duffy, 11234
- 1603. Martha McCroskey, 10452
- 1604. Mohammed Rahman, 11420
- 1605. Frank Singh, 11432
- 1606. Mohammed Kamruzzaman, 11423
- 1607. B Duncan, 11553
- 1608. Lauren Fitzgerald, 11234
- 1609. Darya Hall, 10475
- 1610. Marsha GOODING, 11212
- 1611. Ramon Moore, 11722
- 1612. Sandra Gould, 11212
- 1613. Nicole Manradgh, 10466
- 1614. Val Exis, 10984
- 1615. Hector Ilarraza, 11357
- 1616. Regine Charles, 11234
- 1617. Roy Simmonds, 11233
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- 1619. Akeem Lang-Cayenne, 11234
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- 1621. Vincent O'Reilly, 11414
- 1622. Johny Faisal, 11218
- 1623. Vito Pitta, 11231
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- 1625. Jose Rodriguez, 10468
- 1626. Jean Marc Celestin, 11210
- 1627. Tiffany McEachern, 11236
- 1628. Charlie O'Reilly, 10003
- 1629. Rhondu Forbes, 11207
- 1630. Mika Henley, 11435
- 1631. Javier Rubio, 10472
- 1632. MD Hassan, 10472
- 1633. Lee T, 10302
- 1634. Richard Decoste, 33319
- 1635. Jeremy Smith, 11434
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- 1642. Zuhail Tunc, 11104
- 1643. Diego Cipriano, 11414
- 1644. Ryan Vu, 11369
- 1645. William Coles, 10598
- 1646. Jimmy Lang, 10018
- 1647. Arthur Anderson, 10940
- 1648. Andy Mc Millan, 11212
- 1649. Ellie Antoine, 10301
- 1650. Mckenzie Mclean, 11216
- 1651. Keisha Williams, 11411
- 1652. Richie Rishilakram, 11428
- 1653. Shitanzania Staley, 11213
- 1654. Brandon Mangal, 11215
- 1655. Grantley Bishop, 11510
- 1656. Bryan Moscato, 11746
- 1657. Vijay Budhram, 11220
- 1658. Yenny Romero, 11361
- 1659. Julius Cottle, 11212
- 1660. Daniel Armao, 11566
- 1661. Suzeth Orr, 11203
- 1662. Nakia Haskins, 11233
- 1663. Towanda Reuben, 11208
- 1664. Rondelle Bazil, 11216
- 1665. Tamara sanchez, 10509
- 1666. Darlene Gaston, 11208
- 1667. Juan E. Delacruz, 10509
- 1668. Lydia Augustin, 11236
- 1669. Jenisis Washington, 11208
- 1670. Edward Yates, 11370
- 1671. Katressia Brathwaite, 11226
- 1672. Chris Curry, 11590
- 1673. Sauda Harris, 11520
- 1674. Vincent O'Reilly, 11414
- 1675. Steven Hernandez, 10304-2175
- 1676. Todd Moore, 10026
- 1677. Michael Griffith, 10472
- 1678. Tariq Devore, 11436
- 1679. Kaleb GOODING, 11722
- 1680. Liam Gooding, 11722
- 1681. Arnetta Braxton, 10475
- 1682. Catherine Jallow, 11210
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- 1690. Jonathan Gonzalez, 10472
- 1691. Ali Afolabi, 10465
- 1692. Ricky Colon, 11226
- 1693. Daniel Courtenay, 10001
- 1694. Errol Lowe, 11203
- 1695. Mathews Samuel, 10956
- 1696. Tej Ram, 11208
- 1697. Roslyn Kingston, 11434
- 1698. Thomas Eisenreich, 11415
- 1699. Michelle Wyche, 78259
- 1700. Isabel Soares, 11102
- 1701. Jagnandan Singh, 11040
- 1702. Marcelo Villarroel, 10710
- 1703. chantel trafton, 10303
- 1704. Reinaldo Jiles, 10460-5820
- 1705. Thomas Mercadante, 11226
- 1706. Amirah Sarvis, 11725
- 1707. Derrick Scott, 10451
- 1708. Carolyn maraj, 10940
- 1709. Patsy Acquista, 27616
- 1710. Rodney Lewis, 10467
- 1711. Yusraa Sabree, 29229
- 1712. Salim Ocasio, 11207
- 1713. Marcia Coronado, 11422
- 1714. RAFAEL Rodriguez, 10475
- 1715. Ivan Mai, 11219
- 1716. Christie Wu, 11219
- 1717. Feng He, 11373
- 1718. Ji Li, 11361
- 1719. Jason Wallack, 12550
- 1720. Julie Purvis, 11206
- 1721. John Schiliro, 12533
- 1722. Raquel Ramos, 11221
- 1723. ANIL JACOB, 10530
- 1724. Frederick Saintil, 10550
- 1725. Thoupous P Beaufort, 11206
- 1726. Ruisdael Olivero, 11772
- 1727. L Wariboko, 11207
- 1728. Sedonie Campbell, 11230
- 1729. Ariel Pichardo, 10472
- 1730. Arthur Mercado, 10473
- 1731. Kerry Harrigan, 08833-2106
- 1732. Robert Espailat, 11223

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- 1733. Takia Brown, 11212
- 1734. Travis Ramsaroop, 11001
- 1735. Sean Fleming, 11234
- 1736. Christelle Mathieu, 11429
- 1737. Rawlstan Decoteau, 11236
- 1738. C Curley, 10940
- 1739. Shakeba Darns, 11221
- 1740. Damon Waithe, 11701
- 1741. Amanda Cheung, 11010
- 1742. Mercedes Suarez, 10033
- 1743. Salju Thomas, 11501
- 1744. Roy Duke, 14534
- 1745. Noble Varghese, 10314-6305
- 1746. Anthony Celentano, 15237
- 1747. Rhodjuan Noboa, 10468
- 1748. Wilfredo Gonzalez, 10452
- 1749. Paul Mathew, 11710
- 1750. Tiju Benjamin, 10314
- 1751. Robin George, 10603
- 1752. K Burton, 11422
- 1753. conroy morgan, 11411
- 1754. Henry Perez, 10456
- 1755. Tiffani Hope, 11217
- 1756. Felece jordan, 6610
- 1757. James Thomachan, 11002
- 1758. Mark Beharry, 11429
- 1759. Walter Perez, 10025
- 1760. Michael ly, 11204
- 1761. Razia Begum, 11417
- 1762. Jacob Otto, 11561
- 1763. Emmanuel Yeboa, 10475
- 1764. Derrick Patterson, 10473
- 1765. Nobin Samu, 10314
- 1766. Biju Mathew, 11432
- 1767. Jose Dejesus, 10458
- 1768. Bins Thomas, 19446
- 1769. Rosa Palomino, 92802
- 1770. Julio Reyes, 10040
- 1771. Gimmy Abraham, 11040
- 1772. Adam Grossman, 11566
- 1773. Mark Loadholt, 11207
- 1774. Griselidys Perez, 10941
- 1775. Elias Polanco, 10453
- 1776. Jesus Mesa, 10701
- 1777. Miguel Herinques, 10456
- 1778. Nelson Soto, 10451
- 1779. Michael Parrino, 33414
- 1780. Wendy Padilla, 10960

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- 1782. Sam Pow, 11226
- 1783. Edwin Mendez, 10010
- 1784. Robert Minier, 10451
- 1785. J Toriola, 10552
- 1786. Eugenio Vega, 10469
- 1787. Robin Vincent, 11236
- 1788. Xavier Quinones, 11233
- 1789. Shawn Scanlon, 11518
- 1790. Alvaro Alleyne, 11208
- 1791. Jose Pichardo, 10454
- 1792. Thalia Fernandez, 10033
- 1793. Luis Murria, 11229
- 1794. Alan Gruver, 27577
- 1795. Luis Quezada, 10029
- 1796. S Marcovitch, 10454
- 1797. Daniel Ryan, 11944
- 1798. Shqipe Ndoja, 11415
- 1799. Jonathan Vanbeverhoudt, 10579
- 1800. Michael Hale, 29045
- 1801. Marcos Rivera, 10033
- 1802. Marina Maro, 11204
- 1803. Arevik Mikaelian, 10306
- 1804. Anthony Vosilla, 10309
- 1805. Delsia Marshall, 11411
- 1806. Cicely Edmund, 11234
- 1807. Yvette Casanas, 11208
- 1808. Krystal Edmund, 11226
- 1809. Norman Machado, 10462
- 1810. Carlos Pacheco, 10458
- 1811. Robert Lee, 11203
- 1812. Rainier Chirinos, 60647
- 1813. Abayomi Ikotun, 11422
- 1814. Jesus Marmolejos, 11421
- 1815. Darrell Walker, 11236
- 1816. Marcio Martinez Jr, 10025
- 1817. Steven Belviso, 11565
- 1818. Gladys Barrett, 10469
- 1819. Cassandra Copeland, 11703
- 1820. Terry Weinberg, 11432
- 1821. Tracy Harris, 10475
- 1822. Mahabub Sujon, 10472
- 1823. Carl Brown, 11420
- 1824. Fatimah Joseph, 11369
- 1825. Matthew Katakis, 11104
- 1826. Dave Schwartz, 10009
- 1827. Marlon Grant, 11203
- 1828. Sandra Anglin, 11203

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- 1830. Krystal Bedeau, 11423
- 1831. David Larsen, 19977
- 1832. Jeremy Machado, 10460
- 1833. Kenton Grant, 11714
- 1834. Nancy Dejesus, 11427
- 1835. Breanna Rose, 11203
- 1836. Ioannis Drouvalakis, 11204
- 1837. Jim Holmes, 10312
- 1838. zenetria williams, 11434
- 1839. Annette Wallace, 11434
- 1840. Mauricio Londono, 10305
- 1841. robert bocksel, 11931
- 1842. Jeff Skya, 11714
- 1843. John Lajara, 11372
- 1844. Jennifer Peralta, 10033
- 1845. Martin Gonzalez, 11580
- 1846. Elaine Vasquez, 10305
- 1847. Pamela Soto, 10458
- 1848. Runie Mensche, 34639
- 1849. Mardelan Feliz, 10458
- 1850. Anouk Mcqueen, 11550
- 1851. Danny Kim, 11365
- 1852. Mark Zarkh, 11235
- 1853. Vander Oliver, 11212
- 1854. Rudy Mejia, 11355
- 1855. Steven Wood, 10314
- 1856. Bryan Smith, 10463
- 1857. Christopher Costa, 10704
- 1858. Irma Moreno, 11378
- 1859. Howard Amrani, 10314
- 1860. Philip Mathew, 11001
- 1861. Ralph Potter, 11411
- 1862. Chaquira Eugenio, 10309
- 1863. Omar Gomez, 11717
- 1864. Robert Forrester, 11236
- 1865. Proddut Roy, 11373
- 1866. Kimberly Keegan, 10704
- 1867. Humary Nunez, 10704
- 1868. Keena McCall, 11221
- 1869. Timothy Johnson, 10926
- 1870. Jose Reynoso, 10452
- 1871. Sean Medina, 10026
- 1872. Tsee Lee, 10001
- 1873. Anthony Scoma, 11746
- 1874. Kamaal Moore, 10466
- 1875. Vencent Abraham, 11746
- 1876. Tanisha Sutton, 10457

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- 1877. Shari Dowding, 11213
- 1878. Derek Rodrigues, 10314
- 1879. Maria Rivera, 11221
- 1880. Darnisha Collins, 11221
- 1881. Olivia Pitula, 11224
- 1882. Eliezer Reyes, 10465
- 1883. Giovanni Barca, 10598
- 1884. Thaline Jacquet, 11236
- 1885. Osvaldo Betancourt, 32940
- 1886. John Reid, 10309
- 1887. Austin Cardany, 12522
- 1888. Shante Orr, 11413
- 1889. Tiffany Moorer, 10940
- 1890. Ali Nurse, 12590
- 1891. Paulette Brown, 11236
- 1892. Bonnie Miles, 19977
- 1893. Ismael Medina, 12549
- 1894. Ada Tolentino, 11378
- 1895. Signora Blake, 11355
- 1896. John Pennisi, 11554
- 1897. Karyl Rambert, 11510
- 1898. Paulette Vann, 11233
- 1899. Linda Bryant-Walker, 11236
- 1900. Virginia Hotte, 11721
- 1901. Jesus Bonilla, 10512
- 1902. Georgette Webbert, 10473
- 1903. Marlene Urbaez, 10036
- 1904. Eric Gateau, 11738
- 1905. Edwin Vasquez, 11756
- 1906. Cornelius Morrison, 10705
- 1907. Stacey Gibbons, 11691
- 1908. Sadoc Genoves, 11731
- 1909. Jose Arroyo, 10312
- 1910. Andrea Calvert, 18353
- 1911. John Destina, 11003
- 1912. James Kadnar, 11010
- 1913. Joe Sour, 11730
- 1914. Arthur Pryce, 10520
- 1915. glenn trammell, jr., 10462
- 1916. ABDUL MOHAMMAD, 10462
- 1917. Tremaine Charles, 11207
- 1918. Bernard Crawford, 11691
- 1919. Michael Mitchell, 11413
- 1920. Mindred Castillo, 11354
- 1921. richard wan, 11218
- 1922. James Hubert, 11221
- 1923. Nicholas Campbell, 11412
- 1924. Michael DiBetta, 11362

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1926. Justina Corporan, 11580
1927. Bella Perez, 11951
1928. Guranjan Shah, 11372
1929. Keena McCall, 11221
1930. Peter Matra, 11784
1931. Diana Avellanet, 11215
1932. Juliet Ganpat, 11419
1933. Crystal Coston, 11434
1934. Carmella Charrington, 11216
1935. Colleen Drew, 10475
1936. Ann Carter, 11693
1937. Alan Stein, 11366
1938. Nicado Mitchell, 11212
1939. S Cab, 11206
1940. James Sollitto, 11953
1941. Lauren Carter, 11693
1942. Alva Badillo, 11421
1943. Rob Burke, 11933
1944. Melissa Paul, 11427
1945. Kevin Orr, 11212
1946. Divanshu Malhotra, 11801
1947. Yesenia Comulada, 11717
1948. Sandra Romain, 11413
1949. Cynthia Bletsch, 11725
1950. Susan Bletsch, 11725
1951. Michael Hewitt, 10566
1952. Harry Gomez, 10459
1953. Michael Nandoo, 11420
1954. Heather Henry, 10470
1955. Julissa Polanco, 10465
1956. Jose Fernandez, 10509
1957. Tara Scanlon, 11518
1958. Rasheeda Cline, 10473
1959. Nivia Moore, 10473
1960. Andrea Wright, 11590
1961. Richard Velez, 10541
1962. Syed Arifin, 11373
1963. Fay-Ann McEwen, 11203-1793
1964. I Abednego, 10473
1965. Terray Greenfield, 11216
1966. Angeles De La Rosa, 11373
1967. Grace Aponte, 10305
1968. Jonathan Garcia, 7083
1969. Shawn Kay, 10038
1970. AYISHA GRANT, 11207
1971. Oscar Perez, 10458
1972. Richard Vinciguerra, 11793

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- 1973. Samuel Cesar, 11234
- 1974. Rosalind DeVaughn, 11434
- 1975. Michael Gaines, 10128
- 1976. Mark Turner, 11211
- 1977. Henry Ramirez, 11419
- 1978. Alex Goodridge, 11207
- 1979. Derrick Gary, 11429
- 1980. Giselle Bueno, 10027
- 1981. Yolanda Aponte, 10013
- 1982. Emma James, 11692
- 1983. Jose Reyes, 10461
- 1984. Flor Argueta, 11106
- 1985. Melinda Connor, 11572
- 1986. Nicholas Prensa, 10458
- 1987. Corey Garvin, 11105
- 1988. Gail Williams, 10801
- 1989. Andrew Teagle, 11378
- 1990. Melissa Collazo, 18301
- 1991. Lenny Spallina, 19440
- 1992. Alexander Dienstag, 10014
- 1993. Braulio Mercedes, 10460
- 1994. Patrick Blemur, 11236
- 1995. Robert Mendoza, 11722
- 1996. Vinesh Ramhit, 11206
- 1997. Matthew Davis, 11435
- 1998. DeAshia Pigatt, 7114
- 1999. K Floyd, 11411
- 2000. KATRINA THOMAS, 11233
- 2001. Raymond Crossland, 10940
- 2002. Mike Foeppel, 11762
- 2003. Patrick Alicea, 10456
- 2004. Tracy Storey, 11580
- 2005. Doris Richard, 11216
- 2006. Deborah Wilson, 11206
- 2007. Courtney Wilson, 11216
- 2008. Coco Lee, 10026
- 2009. Anthony Lanni, 11228
- 2010. Michael Eagle, 11229
- 2011. Dianne Amato, 11228
- 2012. Claudia Gayle, 11433
- 2013. Cynthia Whitfield, 10037
- 2014. Kathee Coger, 11581
- 2015. Dustine Gladsrone, 11221
- 2016. Nick Gianikos, 11757
- 2017. Abraham Prtiz, 11692
- 2018. Ismael Perez, 11417
- 2019. Kourtney Talton, 11212
- 2020. Bruce Robertson, 11757

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- 2021. Anant Patel, 11596
- 2022. Linda Petrizzo, 27834
- 2023. Brigitte Smith, 10468
- 2024. Janae Gregg, 11365
- 2025. Kisha Green, 11206
- 2026. Kisha Green, 11206
- 2027. Abby Perez, 11417
- 2028. Frank Catanzaro, 11940
- 2029. Joseph Franco, 10314
- 2030. Ashley Jones, 11727
- 2031. Chantal Gouveia, 11692
- 2032. Melvin hird, 11701
- 2033. Kevin Young, 10801
- 2034. Edward Kelly, 11704
- 2035. Joe Carlino, 11978
- 2036. Anthony Torres, 11803
- 2037. Frank Modica, 10304
- 2038. Brian Bunch, 10301
- 2039. Edgar Miranda, 12550
- 2040. Edgar Miranda, 12550
- 2041. Beatrice Miranda, 10305
- 2042. Kevin Rainbolt, 33541
- 2043. Frank Hursak, 11749
- 2044. Eric Rivera, 10552
- 2045. Arnold Bardales, 11416
- 2046. Fellecia Brown, 10469
- 2047. Mickell Hendricks, 10469
- 2048. Curtis Hendricks, 10469
- 2049. Malik Hendricks, 10469
- 2050. Nilda Molina, 11419
- 2051. Steven Bell, 11426
- 2052. Alan Schmalacker, 11751
- 2053. Mayranda Diaz, 12553
- 2054. Asha Ramrup, 11208
- 2055. Andre Watson, 11226
- 2056. Armando Jonas, 11427
- 2057. Jose Pichardo, 11040
- 2058. Sonia Sefakakis, 10044
- 2059. Ebony Fort, 104873
- 2060. Erin Dolan, 11004
- 2061. Erin Pichardo, 11040
- 2062. Patrick Alicea, 10456
- 2063. Noemi Olivo, 10452
- 2064. Melvin Hernandez, 10940-6003
- 2065. Johanna Taylor, 11580
- 2066. Venith Rogers, 10940
- 2067. emma Pan, 11355
- 2068. Dominik Wise, 11967

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- 2069. Nicolia Junor-Bolton, 11210
- 2070. Stanley Greenwood, 42066
- 2071. Eduardo Torres, 34473
- 2072. Eduardo Torres, 34473
- 2073. Jonathan Crespo, 11741
- 2074. Karin Edwards, 11950
- 2075. Alexandre Junior Guirand, 11432
- 2076. Rohanna King, 10473
- 2077. Pablo Diaz, 11779
- 2078. Abdul Mohammad, 10462
- 2079. David clement, 11003
- 2080. David Caquias, 10307
- 2081. Stanley Augustin, 11432
- 2082. Andrew Roberts, 10452
- 2083. Alli Jean-Bart, 11510
- 2084. Brigitte Guzman, 11427
- 2085. Ruisdael Olivero, 11772
- 2086. Latisha Elliott, 11213
- 2087. Michele Dye, 11428
- 2088. Harold Wilson, 11224
- 2089. Melanie Barragan, 11010
- 2090. Justin Agosto, 12553
- 2091. Frank Forti, 10467
- 2092. Gabriel Chery, 10977
- 2093. Andre Anderson, 11412
- 2094. Larry Field II, 11420
- 2095. Kenneth Harrison, 11216
- 2096. Rony Joachim, 10457
- 2097. Sade McDonald, 11213
- 2098. Matt David, 11801
- 2099. Jeff Lominy, 10920
- 2100. Ayid Hussain, 11429
- 2101. Endy Rodriguez, 10473
- 2102. Julio De los santos, 10473
- 2103. Chriss Rodriguez, 10472
- 2104. Ashley De Los Santos, 10468
- 2105. Cindy Caleca, 11378
- 2106. Maria Aguilas, 10456
- 2107. Criss Santos, 10456
- 2108. Alicia gray, 11225
- 2109. Nile Joseph, 11225
- 2110. Eric Rodriguez, 12550
- 2111. Al Kalinow, 11578
- 2112. Dolis Medina, 11355
- 2113. Reginald Rothwell, 10301
- 2114. AnnaMae West, 12550
- 2115. salvatore Andrews, 11434
- 2116. Lynn Munro, 11370

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- 2118. Michael Mininni, 10308
- 2119. Anthony Saturni, 10312
- 2120. Stephen Mininni, 11214
- 2121. Audrey Mininni, 11214
- 2122. Cheryl Whitlow, 11429
- 2123. Sean Fleming, 11234
- 2124. Ian Hudson, 11213
- 2125. Leon Parkes, 11203
- 2126. Yovani Mota, 10463
- 2127. Lsrk Davis, 13365
- 2128. Loocken Vixama, 11236
- 2129. Sharon Long, 11236
- 2130. Michael Gibbs, 11208
- 2131. Bernard Crawford, 11691
- 2132. Michael Gibbs, 11208
- 2133. Joseam Valentin, 11208
- 2134. Cadogan L, 11207
- 2135. Toshanna Kendall, 11205
- 2136. Michelin Celius, 11236
- 2137. Junior Gustin, 11207
- 2138. Princess Skinner, 10918
- 2139. John Nelms, 11420
- 2140. Andrea Hosey, 11206
- 2141. Priscilla Skinner, 11239
- 2142. Jose Ramos, 10455
- 2143. Vijay Budhram, 11220
- 2144. Sharon Gorman, 11731
- 2145. Eileen O'Donnell, 7403
- 2146. Mir Rashid, 11210
- 2147. maria leone, 10308
- 2148. Lloyd Johnson, 11101
- 2149. Ernest Brauer, 10306
- 2150. Linda Vitarisa, 11010
- 2151. Marlene Henry, 11563
- 2152. Emma James, 11692
- 2153. Eryn Hall, 10026
- 2154. Brayan Martinez, 11433
- 2155. Johnathan Reyes, 11421
- 2156. Mildres Santiago, 11727
- 2157. Johnniemay Witcher, 10304
- 2158. Arthur Roldan, 10302
- 2159. Romel Jolly, 11434
- 2160. Arie Benchetrit, 11223
- 2161. Donnell Moultrie, 11236
- 2162. ARNOLD RIVAS, 11234
- 2163. Christian Peralta, 10473
- 2164. Anthony Nunez, 11209

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- 2166. Jorge Lara, 10469
- 2167. Jose Villodas, 11365
- 2168. Anthony Castro, 11756
- 2169. Justina Corporan, 11580
- 2170. Daniel Dias, 11701
- 2171. George Shammass, 7860
- 2172. Yossi Benchetrit, 11234
- 2173. Christopher Smith, 10451
- 2174. Maneisha Windham, 11206
- 2175. Curtis Smith, 10940
- 2176. lamar meachem, 11590
- 2177. Dave Jackson, 11798
- 2178. Kerion Cohall, 11434
- 2179. M Kay, 11235
- 2180. Anthony Morales, 11209
- 2181. Kimisha Appleton, 10475
- 2182. Carlton Walcott, 10708
- 2183. Naheim Stokes, 11722
- 2184. Cameau Destine, 10304
- 2185. T Faustin, 11743
- 2186. James WILSON, 10301
- 2187. James WILSON, 10301
- 2188. Eddie Couret, 10462
- 2189. Shawnte M Plaza, 10552
- 2190. Carlos Anderson, 11412
- 2191. James Commanderjam, 11207
- 2192. Robert Alexis, 11757
- 2193. Travis Simms, 11210
- 2194. Larry W Davis Sr, 10473
- 2195. Jesus martinez, 10128
- 2196. Orlando Checo, 11216
- 2197. Michele Stewart, 12577
- 2198. Verdessa Mcphaul, 11691
- 2199. Shamon Clark, 10475
- 2200. Tanisha Legister, 11236
- 2201. Tiesha Grant, 11575
- 2202. Tiesha Grant, 11575
- 2203. Jason Loesch, 10309
- 2204. Coya Martin, 11233
- 2205. Cee Brew, 11234
- 2206. Tiffani Robinson, 11236
- 2207. Juan De Jesus, 10454
- 2208. Shari Williams, 11234
- 2209. Savannah Holness, 11236
- 2210. Jeffrey Pierre, 11234
- 2211. David Alvarado, 10453
- 2212. Christopher Hardgrove, 11704

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- 2214. Lovensky Magloire, 11427
- 2215. Olga Figueroa, 10009
- 2216. Fanny Arias, 11203
- 2217. David Perez, 27834
- 2218. Nicole Schojan, 11418
- 2219. Catherine Diaz, 11550
- 2220. B Pierrecharles, 11411
- 2221. Patrick Remy, 11370
- 2222. Tiffany Rankins, 10029
- 2223. Angelique Carter, 11208
- 2224. David Davis, 11434
- 2225. Anthony Davis, 11433
- 2226. Verna Libird, 10469
- 2227. Andrea Bruzzese, 11354
- 2228. MacArthur Johnson, 10705
- 2229. Nieema Everett, 11411
- 2230. Cindy Gerome, 11236
- 2231. Sandra Boscio, 10990
- 2232. Benny Boscio Jr, 10990
- 2233. Gabriel Rozario, 1206
- 2234. swaggart julien, 11230
- 2235. Gabriel Rozario, 1206
- 2236. ErikaErika LoCicero, 10465
- 2237. Chen Min, 11365
- 2238. Jennifer Price, 10941
- 2239. MichaelAaron Flicker, 8008
- 2240. Jeffrey Price Jr., 50240
- 2241. Korab Hasangjekaj, 10312
- 2242. Christin Draton, 10030
- 2243. Elizabeth Oyola, 11206
- 2244. Deidra Lemon, 11355
- 2245. SS `DS, 11222
- 2246. aphrodite gatsos, 11357
- 2247. Hannibal Serrano, 10950
- 2248. Lynn Carletti Errara, 8753
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- 2251. John Drago, 10308
- 2252. Kevin Schlanger, 11793
- 2253. Joseph Greco, 11795
- 2254. LAMAR KELLY, 11411
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- 2256. Desiree Velez, 12553
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- 2278. Latasha Hicks, 11434
- 2279. Andrew Levine, 11354
- 2280. Ray Calderon, 10314
- 2281. William Graham, 10474
- 2282. Christopher Robinson, 11762-2861
- 2283. Stacey Garcia, 10950
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- 2285. Shawn McCarthy, 10465
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- 2290. Richard Rudoff, 10308-1850
- 2291. Pietro Jorge, 11784
- 2292. Octavio Perez, 11967
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- 2300. Alex Holland, 11691
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- 2388. E Barionnette, 11234
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- 2393. Deena Brunson, 11213
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- 2396. Edwin Flete, 10031
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- 2398. Ronald Young, 10453
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I am Bertha Lewis, the Founder and President of the Black Institute, an 'action tank' whose mission is to shape intellectual discourse and dialogue and impact public policy uniquely from a Black perspective. The Black Institute is a strong supporter of Ranked Choice Voting (RCV) and we oppose any attempt to override the will of the voters in New York City and put off its implementation. New York City voters want choices and they want to be able to rank their choices. RCV gives them that power.

From my decades of experience registering, engaging and educating black voters I strongly object to the comments that I have heard that Black voters will not be able to understand and use RCV. Let me say it plainly: Black voters are not stupid. It is *insulting* to say that they will not be able to understand Ranked Choice Voting.

RCV doesn't disenfranchise voters – it enfranchises them. I've spent years knocking on doors, talking to ACORN members and voters, and I can tell you that voters look for different qualities from many different candidates. It can be hard to balance all of the different factors from different candidates. In fact, a number of people end up not voting in crowded races because they can't decide who to vote for among several candidates they like. RCV empowers voters to make sense of crowded fields. It works for Black voters – just as it works for all voters. It is not just a white progressive idea, as experience in cities like Oakland, Berkeley and Minneapolis, where Black candidates have successfully run with RCV and diversified their city councils, makes clear. While it is terrific that there are so many candidates running in June, all voters – Black voters included – will be grateful to be able to use RCV to make sense of so many people running.

I don't buy the argument that we can't educate voters about RCV because of the pandemic. I think it is just an excuse that opponents of RCV are using. We not only had record high voter turn-out during a pandemic, we successfully educated hundreds of thousands of voters on how to vote absentee and where to vote early. The June primary is more than 6 months away. There is plenty of time for voters to learn to rank their vote – applying something they do every day without thinking about it - to the election. It is time to stop raising groundless fears about RCV and get to work and help educate New York City voters about Ranked Choice Voting.



**New York City Council  
Committee on Criminal Justice**

**T2020-6907 Oversight - Ending Solitary Confinement in New York City Jails.**

**T2020-6907 A Local Law to amend the administrative code of the city of New York, in  
relation to banning solitary confinement in city jails**

**December 11, 2020**

**Testimony of The Legal Aid Society Prisoners' Rights Project**

Presented by:

Kayla Simpson  
Prisoners' Rights Project  
The Legal Aid Society  
199 Water Street  
New York, NY 10038  
212-577-3530

CHAIRMAN POWERS and MEMBERS AND STAFF OF THE COMMITTEE ON  
CRIMINAL JUSTICE

Thank you for this opportunity to address the ongoing human rights abuses occurring in the New York City jails through their continued use of solitary confinement. We applaud the Committee members for recognizing the enduring, unnecessary harm confinement poses to the health and safety of New Yorkers in custody, and for taking steps towards much needed reform.

The New York City Department of Correction has held a longstanding, fundamentally punitive attitude towards incarcerated individuals. Anyone familiar with the Department knows this well and despite public statements by the current City administration about its desire to reform this practice and eliminate solitary confinement, little has changed for those held in the jails. Neither circumscribed efforts of the New York City Board of Correction to promulgate piecemeal rules about restrictive housing, nor years of reports from a federal monitor critiquing the deep-seated hostility the Department directs at the people it incarcerates, nor the testimony of many survivors of solitary confinement, have curbed this reflexively punitive approach. Instead, the Department has replaced the monolith of solitary confinement in punitive segregation with a plethora of alternative measures imposed without the due process, however flawed, that governed punitive segregation. Over time they have changed the names and locations of restrictive housing units - Enhanced Supervision Housing, Secure Unit, Second Chance Housing, Solo Housing, Close Custody, MDC 9 South, and Separation status, to name a few - but all are forms of isolation and deprivation with the potential for serious harm.

The Prisoners' Rights Project, together with a broad range of people who have experienced firsthand the torture of solitary confinement and their allies, have long sought *comprehensive* standards to set the floor for all forms of restrictive housing in the jails. A functional definition of solitary or restrictive housing - and not a definition tied to a housing area's name or purported purpose (e.g., punitive segregation, de-escalation confinement) - is essential to genuine reform. We are pleased that the proposed legislation recognizes this approach with its inclusion of limits on not just punitive segregation but a broad range of restrictive housing. However, we believe this is the moment to fully and meaningfully end solitary confinement in all its forms. And in order to do so, the proposed legislation must contain clearer definitions and stronger language to ensure that its comprehensive goals are realized.

Durational limits on any isolated confinement or deprivations are essential to protect human health. Prolonged solitary confinement is torture, and there can be no security or punitive justification for New York City torturing the people held in its jails. We therefore support calls to make clear standards requiring a minimum of 14 hours out of cell time for *all* people in city custody, no matter what their housing units are called, and whether their restrictions are punitive or otherwise. Further, there should be stringent limitations on the cumulative number of times individuals may be so restricted. Young people, people with disabilities, pregnant persons, and those with serious mental illness should not be placed in restrictive housing of any kind, but should instead be provided with appropriate, accessible, and therapeutic programming and services. The particular harms faced by these individuals when placed in isolated confinement

Testimony Before New York City Council  
December 11, 2020

are significant and well documented. It would be a reckless oversight to attempt comprehensive reform of solitary confinement without protecting those who are particularly vulnerable when placed in isolation.

It is also critical that reforms of solitary confinement secure fairness and due process for people on whom the Department wishes to impose such significant deprivations of liberty. The arbitrary process for placing individuals in such confined settings and the absence of clear directives or oversight has created a loophole used by the Department to place individuals otherwise exempt from punitive segregation or solitary confinement into equally solitary and traumatizing housing by giving it a different name. For this reason, legislation must provide for a hearing if an individual is to be placed in prolonged restrictive housing. To be meaningful, this should include notice to counsel or an advocate and access to representation at a hearing.

Finally, people in custody and their advocates have described for decades a pattern of false “refusals:” DOC staff saying that incarcerated people have refused hearings, or medical escorts, or counsel visits, when no such refusal ever occurred. That’s why any refusal by an incarcerated person to attend such hearings must be videotaped and made part of the record. The video should clearly support a valid waiver of the individual’s right to be present at their restrictive housing hearing. It should show that the incarcerated person was informed of their right to attend the hearing and the consequences of the failing to appear. Failure to provide the notice described herein or to enter into the record videotaped evidence of any alleged refusal to attend by a person in custody should constitute a violation of the fundamental right to appeal and no hearing should occur unless and until the incarcerated person agrees to attend or adequate waiver is obtained.

We once again appreciate the efforts by this Council to create solitary confinement reform. We look forward to working with you on bill language that accomplishes this important goal. We further hope that your interest and oversight will encourage the Department of Correction and the Board of Correction to work towards reforms. These times demand ambitious, aspirational leadership. Please listen to the words of those who have experienced the trauma of solitary confinement and their advocates and issue a revised bill that honors those experiences and the dignity and humanity of all incarcerated persons by ending solitary confinement once and for all.

Thank you.

**New York City Council  
Committee on Criminal Justice  
Oversight- Ending Solitary Confinement in NYC Jails**

**December 11, 2020**

**Written Testimony of The Bronx Defenders  
By Julia Solomons, Tahanee Dunn, and Martha Grieco**

Good afternoon Chair Powers and Committee Members, my name is Julia Solomons and I am a criminal defense social worker and policy advocate with The Bronx Defenders (“BxD”)<sup>1</sup>, as well as a member of the Jails Action Coalition. Thank you for your attention to these critical matters and for the opportunity to testify before you today.

**I. Introduction**

While we are grateful for the opportunity to come before you today, we know that this hearing is just one of the many opportunities for public comment on the use of solitary confinement in our jails in recent years. Survivors of solitary confinement have been telling their stories and reliving the trauma they experienced for years now at public hearings and meetings as the Board of Correction (“BOC”) has deliberated about when and how to end this torturous practice. It has taken the City too long to fix the broken disciplinary system in our jails—lives have been lost because of that delay. In New York City, there is not one difference between pre-trial detention and a post-conviction jail sentence. Whether you are serving a sentence after a finding of guilt, or you are just too poor to pay your bail while you await trial, your jail experience is exactly the

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<sup>1</sup> The Bronx Defenders is a public defender non-profit that is radically transforming how low-income people in the Bronx are represented in the legal system, and, in doing so, is transforming the system itself. Our staff of over 350 includes interdisciplinary teams made up of criminal, civil, immigration, and family defense attorneys, as well as social workers, benefits specialists, legal advocates, parent advocates, investigators, and team administrators, who collaborate to provide holistic advocacy to address the causes and consequences of legal system involvement. Through this integrated team-based structure, we have pioneered a groundbreaking, nationally-recognized model of representation called *holistic defense* that achieves better outcomes for our clients. Each year, we defend more than 20,000 low-income Bronx residents in criminal, civil, child welfare, and immigration cases, and reach thousands more through our community intake, youth mentoring, and outreach programs. Through impact litigation, policy advocacy, and community organizing, we push for systemic reform at the local, state, and national level. We take what we learn from the clients and communities that we serve and launch innovative initiatives designed to bring about real and lasting change.

same. Effectively then, once you are arrested and the judge decides to set bail your loved ones cannot pay, you begin serving a jail sentence whether you are guilty or not. As a result, many people believe that the criminal legal system does not respect them or their rights, and the way our city jails operate only reinforces this belief.

The way the Department of Correction (“DOC”) psychologically tortures people in custody and willfully violates true due process rights is not only inhumane, it also does not keep anyone safe. Rates of violence are increasing. Given the urgency of the situation, we must ensure that there is a true, definitive end to solitary confinement. For that reason, today we ask the City Council to adopt the amended version of Int. 6908 submitted by the Jails Action Coalition and #HALTsolitary campaign. The amended version would:

- Guarantee access to counsel as a starting point for representation in disciplinary proceedings;
- Require true out-of-cell time, making it impossible for DOC to create solitary confinement by another name; and
- Begin to shift the punitive mentality in jail settings towards one of healing and rehabilitation.

The group of impacted people and advocates that make up the Jails Action Coalition and #HALTsolitary campaign have been fighting for years to see this practice ended, and we believe that the bill will not have its intended outcome as it is written currently. We strongly encourage the Council to amend the bill before passing it.

## **II. Guarantee access to counsel as a starting point for representation in disciplinary proceedings**

We have long appreciated the Council’s support on the issue of access to counsel in city jails, and are thrilled that this change was written into the bill. While we believe that a guaranteed right to counsel, as the bill reads currently, is ultimately what must exist in the jails, we believe that we must start with basic access to counsel first. For those who already have an attorney of record in an ongoing legal matter, that attorney must be notified and permitted to be present and advocate for their client at the disciplinary hearing, before which the person cannot be placed in any form of restrictive housing. This is a practice that can be implemented now, without any new budget increase. DOC cannot appoint counsel, which would make requiring an attorney be present a much longer process to implement. We propose that starting with access to counsel will allow us to make critical changes immediately, while gradually and responsibly building out representation practices within the jails.

Attorneys of record must be given 48-hours notice so that they or a representative (attorney or advocate) have a meaningful opportunity to attend the hearing. Our clients often report that they

were never informed of their hearing in situations where DOC claims that they refused the opportunity to attend. In instances where people in custody refuse their right to a hearing, that refusal must be videotaped to ensure true access to due process.

Access to counsel in jail and prison disciplinary proceedings has been the norm for *decades* in several jurisdictions with high populations, such as Washington, D.C. and Massachusetts. We encourage the City to use these jurisdictions as a model. Shifting the power balance in disciplinary hearings will significantly reduce the reliance on restrictive housing. Allowing counsel to be part of the disciplinary process not only creates true due process, transparency and accountability, but also provides the incarcerated person with the necessary support to truly bring them into the process and foster investment in their personal growth. It offers our clients a sense of agency and ability to advocate for themselves in an otherwise completely controlled environment, to which most of our clients are subject to simply because they are too poor to pay bail.

### **III. Make it impossible for the Department of Correction (“DOC”) to create solitary by another name by mandating true out-of-cell time**

As the bill is currently written, it mandates that someone in restrictive housing receive 10 hours of out-of-cell time each day. However, in the [Blueprint to End Solitary Confinement](#) drafted by the Jails Action Coalition and referenced by the BOC frequently in discussions about their proposed rule to end solitary, 14 hours of out-of-cell time is necessary in order to eliminate the harmful effects of prolonged isolation. Because DOC has repeatedly created new housing units that are not called “segregation” or “restrictive,” but continue to isolate, torture, and deny people in custody basic human rights, the bill must define terms like “solitary confinement” and “restrictive housing” with specificity. It is critical that the City lays out in detail the practices that are permitted when a person is convicted of an infraction, and ensures that the punitive aspect of these practices is limited.

Additionally, as the bill is currently written, requiring only 10 hours out-of-cell time leaves open the opportunity for DOC to keep a person in isolation longer than it would appear on the surface. The term “out-of-cell” time typically means a transfer to a larger cell that is open to the outdoors (“rec”) or transfer to a TV room. The way access to out-of-cell time works in practice, as our clients report, the officer does not actually announce himself when he walks past the cells before dawn at the designated “rec” hour. No one is awake at that time; an extraordinary number of our clients have reported to us over the years that the jail setting is especially disruptive to their sleep, and no one has access to an alarm clock to rouse themselves in order to make sure they are waiting by their door when the officer passes by. The officer does not knock on doors, so in order to avail oneself of “rec” time one must know exactly when the officer will be walking by and make sure one is awake and standing by the door. Factoring this into a calculation of

mandated out-of-cell time, DOC might open a person's cell at 4 or 5 am when the person is asleep and begin counting the time then, meaning that the person would, in practice, only be out of their cell from 7 am until 2 pm, and locked in their cell the rest of the time. 14 hours out-of-cell is necessary for a person to meaningfully engage in socialization, supportive programming, and personal hygiene and maintenance.

#### **IV. Begin to shift the punitive mentality imposed in the jail settings towards one of healing and rehabilitation**

Both DOC Commissioner Brann and members of the BOC have spoken publicly about their intentions to move away from punitive approaches and towards rehabilitation when conflict arises in the jail system. They have spoken of imminent culture change within the jails. Yet what we hear from our clients is that they are being held in isolation for prolonged periods of time without any meaningful due process. We hear that violence in the jails is only met by more violence, and that once placed in restrictive housing, access to clinical support is negligible. Approaches to violence that are truly restorative always involve a support person for the people on both sides of the conflict, as this increases accountability and investment in the process and in long-term change. Correctional staff are not our clients' support people, nor are they experts in due process—and they are not expected to be either. By allowing advocates to participate in disciplinary hearings, we will increase accountability both for the correctional staff and the incarcerated person, the first step to changing patterns and behaviors.

Additionally, the amended version of Int. 6908 proposed by advocates includes more meaningful clinical intervention by mental health staff to address underlying causes of escalated behavior, as well as requiring comparable access to congregate programming. Offering individuals critical support and engagement in response to incidents of violence is the only way to address root causes and make meaningful behavioral change. Requiring trauma-informed deescalation training for staff is critical as well, given the severe and complex trauma histories affecting so many people in custody. Trauma permanently alters the way the brain and body respond to a perceived threat, and an understanding of how that neurological shift presents in practice is critical to the ability to deescalate a situation involving a trauma response. This bill must specify changes such as these that allow for a deeper understanding and response to violence. It must recognize our clients' humanity and lived experiences, and address their needs as the first step to addressing their behavior.

#### **V. Conclusion**

Since BxD created our Prisoners' Rights Project just over a year ago, BxD staff attorneys and advocates have flooded the Project with referrals, a large portion of which reflect the glaring brokenness of the disciplinary system in our city jails. Our clients are placed in isolation when

they are categorically ineligible for it; spend months cycling back and forth from punitive segregation to enhanced supervision housing; and often do not even know exactly why that is happening to them. The City Council must pass the amended version of Int. 6908 as soon as possible. We have delayed far too long already in allowing this type of harm to be inflicted on people in custody. We must guarantee access to counsel in the disciplinary process, and categorically and completely ban inhumane isolation practices. We must move towards a more rehabilitative system that truly creates change, for the safety of everyone inside jail facilities.

**The Bronx  
Defenders**

**Redefining  
public  
defense**

**New York City Council  
Committee on General Welfare  
Supportive Housing Tenants Bill of Rights**

**December 14, 2020**

**Written Testimony of The Bronx Defenders  
By Emily Friedman and Rosa Jaffe-Geffner, LMSW**

Good afternoon, Chair Levin and Committee Members. We are Emily Friedman, Staff Attorney, and Rosa Jaffe-Geffner, Social Work Coordinator, from the Civil Action Practice at The Bronx Defenders (“BXD”).<sup>1</sup> Thank you for your attention to these critical matters and for the opportunity to testify before you today.

**A. Introduction**

In the Civil Action Practice, access to stable, quality, housing is an urgent need for many of our clients. We meet clients two ways: First, through our interdisciplinary model, we work with clients who are facing housing consequences due to criminal legal system or other court system entanglement. The second way is through direct referrals from Housing Court as Right to Counsel providers in the Bronx. Through our housing work, we are familiar with the problems, deficiencies, and challenges tenants living in supportive housing experience—either because our clients are fighting to access supportive or other subsidized housing or because we are helping our clients defend against displacement from their supportive housing.

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<sup>1</sup> The Bronx Defenders is a public defender non-profit that is radically transforming how low-income people in the Bronx are represented in the legal system, and, in doing so, is transforming the system itself. Our staff of over 350 includes interdisciplinary teams made up of criminal, civil, immigration, and family defense attorneys, as well as social workers, benefits specialists, legal advocates, parent advocates, investigators, and team administrators, who collaborate to provide holistic advocacy to address the causes and consequences of legal system involvement. Through this integrated team-based structure, we have pioneered a groundbreaking, nationally-recognized model of representation called *holistic defense* that achieves better outcomes for our clients. Each year, we defend more than 20,000 low-income Bronx residents in criminal, civil, child welfare, and immigration cases, and reach thousands more through our community intake, youth mentoring, and outreach programs. Through impact litigation, policy advocacy, and community organizing, we push for systemic reform at the local, state, and national level. We take what we learn from the clients and communities that we serve and launch innovative initiatives designed to bring about real and lasting change.

What is most troubling about these cases is that our clients have already fought through perhaps the hardest parts of their lives to be deemed eligible for supportive housing, only to face losing it because of the very issues that made them eligible in the first place. They have significant histories of chronic homelessness, serious mental illness, and persistent substance use. With little income, often relying on social security benefits or public assistance, supportive housing is one of their few opportunities to access transitional or permanent housing. When we meet our clients, it is because they are at-risk of losing that critical opportunity.

We support the Supportive Housing Tenant's Bill of Rights as a necessary first step toward ensuring that those who live in supportive housing are informed of the rights they already have. This legislation will protect the most vulnerable New Yorkers because:

- The Bill requires written notice that centralizes and makes explicit tenant rights, including grievance procedures and reasonable accommodations that will provide protections against discrimination as well as alternatives to eviction; and
- The Bill's promotion of transparency, access to legal services, and meaningful notice of rights will prevent evictions.

We urge the Council to consider going even further. Specifically:

- The Supportive Housing Tenant's Bill of Rights would be improved with meaningful oversight and expanded protections.

With additional accountability measures in place, New York City will take another important step toward ensuring that all city residents have safe and stable housing.

### **B. A Supportive Housing Bill of Rights is Necessary to Protect the Most Vulnerable New Yorkers from Eviction**

Eviction has devastating consequences on any tenant's life. Evictions are traumatic, violent, and wreak havoc on those subjected to the process. Once families and individuals become homeless they often have no choice but to enter the shelter system; it can take years for them to enter permanent housing again. Evictions cause tremendous strain on people's finances and stability. They deeply impact people's physical and mental health. And in New York, people of color are disproportionately subjected to eviction from their homes.<sup>2</sup> These harms of eviction are often magnified for tenants in supportive housing, who are also predominantly people of color who already experience mental illness and histories of homelessness, with very few options for where to go.

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<sup>2</sup> See, e.g., CASA & UJC, *Tipping the Scales: A Report of Tenant Experiences in Bronx Housing Court*, March 2013, at 6. Available at: [http://cdp.urbanjustice.org/sites/default/files/CDP.WEB.doc\\_Report\\_CASA-TippingScales-full\\_201303.pdf](http://cdp.urbanjustice.org/sites/default/files/CDP.WEB.doc_Report_CASA-TippingScales-full_201303.pdf)

The COVID-19 pandemic has made clear that housing is a human right and a necessary component of public health. As advocates for the same populations that have been disproportionately impacted by COVID-19—low-income people of color—we have always known this to be true. While the pandemic has given rise to new protections for tenants across the country, however, New York City’s supportive housing tenants have been left out. Because eviction moratoriums focus on tenants who have been financially impacted by the collateral consequences of COVID-19, supportive housing tenants, who often have fixed incomes, cannot prove financial impact. Supportive housing tenants who are brought to Housing Court on holdover cases—often for no reason at all or because the tenant’s behavior is considered a “nuisance” to the apartment or building—also may not receive protections under the moratoriums.

We know stable, affordable housing is essential for those struggling with mental health issues. With supportive housing tenants less protected, now more than ever, their rights as tenants need to be recognized. Under current law, people residing in supportive housing are considered “tenants” with every right that exists within the traditional landlord-tenant relationship, plus additional rights that derive from city and state contracts with the supportive housing providers. But too often we see supportive housing providers operate as if they are exempt from providing even the basic protections that all tenants in New York City have under federal, state, and city law.

Supportive housing providers regularly bring cases in Housing Court without providing any due process to the tenants before terminating them from the program. Moreover, supportive housing providers often bring these cases without notifying the court of the tenant’s supportive housing status, denying them additional protections that may be available. In the most egregious cases, we have seen supportive housing providers change the locks on tenants and discard all of their possessions without any court proceeding or even any notice.

The Supportive Housing Tenant’s Bill of Rights asserts additional tenants’ rights that would help prevent evictions. First, it would make sure that tenants and supportive housing programs are aware of their rights and legal requirements from the outset of the tenancy, which would prevent issues from escalating to the point that eviction appears to be the only option. Second, it would ensure that tenants in supportive housing receive the due process protections in eviction proceedings that are afforded to them by federal, state, and city law, and by the contracts through which they are housed.

1. The Bill Requires Written Notice to Tenants of their Rights, Including Grievance Procedures and Reasonable Accommodations that Will Provide Protection Against Discrimination and Alternatives to Eviction

It is far too often the case that we see allegations levied against supportive housing tenants in eviction proceedings based on issues that should have been resolved through an alternative, less draconian intervention. Through our model of client representation, we are able to get involved early and provide advocacy to seek such alternatives. BxD clients have expanded access to housing representation because we receive direct referrals from the Criminal Defense and Family Defense Practices within our organization. Through this holistic process, we often engage with clients in supportive housing before their case has reached the Housing Court stage. In pre-litigation advocacy, we can help clients to resolve their issues and prevent the need for court intervention and the stress of an eviction proceeding. Other legal service organizations, however, do not usually have an opportunity to connect to supportive housing tenants until they are already in Housing Court. With a lack of consistent and formal procedure for alternatives to eviction for supportive housing tenants, the process on which we rely is inconsistent, resulting in inequitable outcomes. The creation of grievance procedures and promotion of reasonable accommodations through the Bill of Rights will create meaningful alternatives to eviction.

*i. Grievance Procedures*

We have seen a troubling trend of supportive housing providers trying to evict supportive housing tenants in holdover proceedings where ongoing conflicts between staff and roommates escalate to the point of police involvement. Oftentimes, we learn about these cases through our Criminal Defense Practice when the criminal cases are arraigned. These cases are a prime example of criminalization of the mentally ill, since the tenant behavior is directly related to the mental health diagnosis that made the tenant eligible for living in a setting with higher supports in the first place. It is not uncommon in reviewing the petition or speaking with our client that we note missed opportunities for alternatives to eviction. The grievance policy in the Bill of Rights will bring us closer to holding supportive housing providers more accountable when such situations occur. With a grievance policy, supportive housing tenants will be given the tools from the beginning of their occupancy to address such conflicts. If an advocate becomes involved, there will be a process that will ensure that the supportive housing provider has done everything in their power to address the concerns of the tenant before the situation escalates to calling the police, filing a Housing Court petition, or both.

*ii. Reasonable Accommodations and Protections Against Discrimination*

Another troubling trend is supportive housing evictions based on allegations that are directly related to the reason the individual qualified for supportive housing in the first place. Programs

often claim that a tenant is “disruptive” or failing to comply with program rules and try to kick them out. These allegations fail to recognize the relationship between a tenant’s mental health diagnoses and their conduct, running the risk of evicting clients based on their eligibility for the program. In 2018, Intro 147 was introduced in the City Council to advocate against “creaming” or screening out potential tenants who exhibited the most significant mental health concerns during the application process. We are now gravely concerned that this recreates the “creaming” process to remove people from supportive housing. When the symptoms of the supportive housing tenant require a higher level of care, they should be properly accommodated, not evicted. Otherwise, the basis of the eviction is actually disability discrimination against supportive housing tenants. Such evictions are against the law and subvert the purpose of supportive housing. We believe that the Bill of Rights’ reference to reasonable accommodations under the human rights law is a step in the right direction to addressing this issue. This normalizes the need for accommodation within supportive housing and presents another option as an alternative to eviction.

Such accommodations would be taken a step further with creating a transfer system that focuses on moving supportive housing tenants from one level of care to another. We understand that supportive housing is limited and we are not naive to the constraints of supportive housing providers around identifying available housing. Nonetheless, eviction and homelessness cannot be the solution to this problem. Transfers as a reasonable accommodation are possible, even with limited available housing. While immediate housing may not be offered, at minimum such a system would recognize that the social problems of tenants should be addressed through transferring units, not evictions. A transfer system would be another way for supportive housing providers to be accountable to the needs of tenants through providing accommodations.

## 2. The Bill’s Promotion of Transparency, Access to Legal Services, and Meaningful Notice of Rights Will Prevent Evictions

We believe eviction from supportive housing is never an appropriate remedy. New York City’s most vulnerable populations should not have to experience the trauma of losing the stability of their home. However, if supportive housing tenants can be subjected to eviction, then it should only be as a last resort. This bill being considered today will at a minimum ensure due process for supportive housing tenants in eviction proceedings.

Most importantly, the Bill of Rights makes explicit that tenants in supportive housing may only be evicted through a court proceeding, rather than through self-help or other informal processes. It also mandates that providers put information about the tenant’s supportive housing status and compliance with the requirements of the Bill of Rights into the court papers. This requirement will eliminate the risk that the Housing Court and advocates are unaware of the special protections that may apply.

As advocates for supportive housing tenants in Housing Court, the lack of transparency around the rules governing supportive housing programs is a constant barrier to effective representation. It is an uphill battle to obtain even the most basic information about supportive housing programs necessary to defend against an eviction. Advocates need to engage in extensive investigation, including FOIL requests to multiple city and state agencies, just to figure out who funds the program, and by extension what regulations apply to the tenant. Providing this information from the start, as required by the Bill of Rights, would allow tenants and their advocates to more effectively exert their rights in eviction proceedings.

Even with expanded transparency, supportive housing tenants need legal representation to determine the scope of their defenses, given the complex regulatory structure of these programs. Without a lawyer, tenants in Housing Court are regularly pressured into unfavorable settlements, including agreeing to leave their homes without understanding their rights.<sup>3</sup> This risk is even higher for the population living in supportive housing. The Bill of Rights will mitigate this risk by requiring providers to notify tenants of the right to Housing Court attorneys from the start of their tenancy.

### **C. The Supportive Housing Tenant’s Bill of Right Would Be Improved with Meaningful Oversight and Expanded Protections**

For the Bill of Rights to provide tenants with adequate notice of their rights, we see the need for guidance and training around both the contents of the Bill of Rights and how the information is disseminated. Both supportive housing tenants and supportive housing case workers should receive support to ensure they are aware of and meeting the requirements in the Bill of Rights. Specifically, the content in the Bill of Rights must be accessible to tenants. Providers should be responsible for ensuring that tenants properly receive the information in a timely manner. For the Bill of Rights to be effective, it must be more than a piece of paper. There must be tailored education and the information must be distributed during a time where the supportive housing tenant is fully available.

Further, in order for the Bill of Rights to be effective in enhancing protections of tenants in supportive housing, there must be meaningful oversight and accountability. While the bill’s suggested \$250 monetary penalty for lack of compliance (proposed as § 21-145(d)) may ensure that supportive housing providers share the Bill of Rights, there must also be greater oversight to

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<sup>3</sup> See, e.g., CASA & UJC, *Tipping the Scales: A Report of Tenant Experiences in Bronx Housing Court*, March 2013. Available at: [http://cdp.urbanjustice.org/sites/default/files/CDP.WEB.doc\\_Report\\_CASA-TippingScales-full\\_201303.pdf](http://cdp.urbanjustice.org/sites/default/files/CDP.WEB.doc_Report_CASA-TippingScales-full_201303.pdf); Office of Civil Justice, *Universal Access to Legal Services: A Report on Year Two of Implementation in New York City*, Fall 2019. Available at: <https://www1.nyc.gov/assets/hra/downloads/pdf/services/civiljustice/OCJ-UA-Annual-Report-2019.pdf> (showing dramatic reduction in evictions when tenants are represented by counsel).

make sure that supportive housing providers are not violating those rights. City-funded programs meant to serve disabled New Yorkers with a history of homelessness must be held accountable for discriminating against the tenants in their programs and otherwise violating their right to a safe, stable, and habitable home.

Finally, while we see the Bill of Rights as an essential first step, supportive housing tenants should be entitled to broader protections against eviction. Access to empowering information such as supportive housing tenants' right to an attorney will be enhanced by establishing a consistent, enforceable pre-termination process prior to commencing an eviction proceeding. There must be an outlined process consistent amongst all supportive housing providers that makes transparent the efforts taken in preventing eviction. Furthermore, the supportive housing provider should be held accountable for doing so. We applaud the proposed Bill of Rights for including policy and procedures for tenants' complaints and ask that the same framework is applied to evictions from supportive housing. Prior to eviction, supportive housing tenants should be entitled to a full process to determine if the underlying issues could be addressed with additional supports or accommodations. Policy and procedures applied in this way will increase the likelihood of stopping evictions proceedings before they even begin.

#### **D. Conclusion**

We implore the City Council to use this as an opportunity to enforce the rights of supportive housing tenants to the fullest. The Bill of Rights recognizes those residing in supportive housing have an actual contractual right to live as tenants in the supportive housing site, rather than merely stay there. We know that this Bill of Rights can be enhanced in the interest of supportive housing tenants through such suggestions as 1) increasing the level of enforcement and oversight; 2) expanding due process; and 3) tailoring the distribution of information to the needs of those that are struggling with recovery. In order for the Bill of Rights to be truly meaningful and execute the extent of its fullest power of protection, we urge the City Council to strongly consider our recommendations.

Thank you for your time and opportunity to speak on such important matters.



## Mental Health Project

New York City Council  
Committee on Criminal Justice

### **Oversight Hearing – Ending Solitary Confinement in New York City Jails**

Friday, December 11, 2020  
Remote Hearing, Virtual Room 3  
New York, NY

Testimony of  
Jennifer J. Parish  
Director of Criminal Justice Advocacy  
Urban Justice Center Mental Health Project  
(646) 602-5644  
[jparish@urbanjustice.org](mailto:jparish@urbanjustice.org)

The Urban Justice Center Mental Health Project strongly supports ending the torture of solitary confinement in New York City jails. Solitary confinement is detrimental to the health and well-being of those subjected to it, and it has no place in the City jails.

We appreciate Council Member Dromm introducing Int. 2173-2020, a bill to end solitary confinement in City jails, and Public Advocate Williams and Council Members Lander, Reynoso, Rivera, Levine, and Rosenthal for co-sponsoring the legislation. Despite Mayor de Blasio's announcement that NYC would end the use of solitary confinement, this bill is the first concrete plan for actually doing so. Realizing that goal?

We urge the City Council to amend Int. 2173 consistent with the *Blueprint for Ending Solitary Confinement in NYC Jails* proposed by the #HALTsolitary Campaign (HALT) and NYC Jails Action Coalition (JAC).<sup>1</sup> By strengthening the legislation in the ways described below, New York City can fully end the use of solitary confinement and other degrading and dehumanizing practices.

The Urban Justice Center Mental Health Project has advocated for people with mental health concerns involved in the criminal legal system for more than 20 years. We are deeply familiar with the difficulties people with mental health concerns have within correctional facilities and in accessing essential mental health services, housing, and benefits upon release. We represent the *Brad H. Class*, all incarcerated individuals who receive mental health treatment while in City jails.

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<sup>1</sup> Available at <http://nycaic.org/wp-content/uploads/2019/10/Blueprint-for-Ending-Solitary-Confinement-in-NYC-Oct-2019.pdf>.

We are extremely concerned that the jail environment, especially placement in solitary confinement, harms these individuals not only while they are incarcerated but after their release. Moreover, solitary confinement poses a health risk for everyone subjected to it – whether they had pre-existing mental health challenges or not.

**I. The City Council must pass legislation prohibiting the use of solitary confinement and requiring that incarcerated persons who need to be separated from the general jail population be afforded services and programming in a supportive, non-punitive environment.**

The Council should require humane treatment for all persons incarcerated in the City jails. The firsthand accounts of people who have endured solitary confinement clearly establish the inhumanity of this practice.<sup>2</sup> Moreover, research shows the severe psychological harm and other health effects that solitary causes both while a person is incarcerated and upon release. For instance, people exposed to solitary confinement are almost seven times more likely to attempt to hurt or kill themselves than other incarcerated people.<sup>3</sup> They also have higher rates of hypertension than other incarcerated people with a recent study showing that one-third of the people in supermax units were more likely to experience heart attacks and strokes.<sup>4</sup> They are more likely to die in the first year after release from incarceration, especially from suicide or homicide; more likely to die of an opioid overdose in the first two weeks after release; and more likely to be reincarcerated.<sup>5</sup>

Given the well-established harm solitary confinement causes, the Council should prohibit its use entirely. Where safety concerns require that a person be separated from others, that separation should be limited to the period in which the person poses an actual, physical danger to others (measured in minutes and hours, not days and weeks). A person who is at risk of harming others should be housed in an environment that mitigates that risk through intensive engagement with skilled staff and programming that addresses the underlying cause of problematic behavior.

**II. The proposed legislation must be strengthened to accomplish these goals.**

- A. The limits on involuntary lock-in established by the Board of Correction’s minimum standards should apply to everyone in custody.

In units where out-of-cell time is reduced, the Department has not managed to create a therapeutic environment that promotes rehabilitation. Although Enhanced Supervision Housing (ESH) is

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<sup>2</sup> See the testimony of Trent Taylor, Marvin Mayfield, Vidal Guzman, Herbert Murray, Harvey Murphy, Evie Litwok, and Candie at the Board of Correction’s December 2019 public hearings on restrictive housing rulemaking as well as the comments of incarcerated persons submitted by advocates available at <https://www1.nyc.gov/site/boc/jail-regulations/rulemaking-2017.page>.

<sup>3</sup> Kaba F, Lewis A, Glowa-Kollisch S, et al. Solitary confinement and risk of self-harm among jail inmates. *Am J Public Health*. 2014;104(3):442–447. doi:10.2105/AJPH.2013.301742

<sup>4</sup> Williams, B.A., Li, A., Ahalt, C. et al. The Cardiovascular Health Burdens of Solitary Confinement. *J GEN INTERN MED* 34, 1977–1980 (2019). <https://doi.org/10.1007/s11606-019-05103-6>

<sup>5</sup> Brinkley-Rubinstein L, Sivaraman J, Rosen DL, et al. Association of Restrictive Housing During Incarceration With Mortality After Release. *JAMA Netw Open*. 2019;2(10):e1912516. doi:10.1001/jamanetworkopen.2019.12516

intended to promote “rehabilitation, good behavior, and the psychological and physical well-being of [incarcerated persons],”<sup>6</sup> it has proven to be a highly punitive environment. The Board found that “most young adults are spending nearly all day locked in their cells, rather than the minimum 7 hours provided for under the ESH standards.”<sup>7</sup> Restricting out-of-cell time creates the perception by staff and incarcerated people that the unit is punitive. Punishment is ineffective in preventing or deterring violence.<sup>8</sup> Thus, all units should allow for 14 hours out-of-cell time daily.

B. The legislation must clearly define what is required and what is prohibited.

Through our efforts to reduce the use of solitary confinement in the City jails, we have learned much about the challenges of bringing about meaningful change to Department of Correction (DOC) practices. After the Board of Correction adopted rules prohibiting the use of solitary for young people under 22 years old, DOC developed other forms of restrictive, degrading, dehumanizing units. For example, now they place young adults in a restrictive unit where they are shackled in a restraint desks for the seven hours they are allowed out of their cell. The Department developed units labeled “general population” but where individuals spent their out-of-cell time alone in a slightly larger dayroom – technically out of cell but just as isolated as solitary confinement. Because of these and other efforts to circumvent meaningful change, the Council’s legislation must clearly define what is prohibited and what is required.

The Department is adept at manipulating language and creating restrictive housing units that circumvent restrictions imposed upon their practices. Thus, the Council must define restrictive units based upon the manner in which they function and from the perspective of the incarcerated person – not based upon the Department’s name or purpose for the unit.

C. Cell confinement should occur in the context of deescalating a person and should be used for as short a time as necessary and include safeguards for medical and mental health staff to monitor and assess individuals while in cell confinement.

The bill should be strengthened to require the involvement of Correctional Health Staff (CHS) in observing and assessing individuals while they are placed in cell confinement. Where CHS staff determine that the treatment needs of a person in cell confinement require that they be removed from such confinement, the Department must be required to act in accordance with CHS’s determination. The bill should also be amended to include time limits regarding subsequent placement in cell confinement to prevent improper repeated use of cell confinement to punish incarcerated individuals rather than deescalate immediate conflict.

D. Before an individual is placed in restrictive housing, they must have a meaningful opportunity to be heard and to confront the evidence against them.

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<sup>6</sup> Minimum Standard (Min. Std.) § 1-16(a).

<sup>7</sup> An Assessment of Enhanced Supervision Housing for Young Adults, NYC Board of Correction, July 2017, at iii.

<sup>8</sup> Gilligan J and Lee B. Report to the Board of Correction, September 5, 2013, at 5, available at <https://solitarywatch.org/wp-content/uploads/2013/11/Gilligan-Report.-Final.pdf>.

The due process protections in the bill should be strengthened, including making access to counsel real, providing timely notice and an opportunity to be heard, and videotaping any purported refusals to appear at a hearing, with dismissal of charges if these requirements are not followed.

## **Conclusion**

Eliminating the use of solitary confinement, creating alternative units focused on rehabilitation, and developing a disciplinary system grounded in procedural and restorative justice are essential to improving the operation of the City jails.

This bill can be the beginning of addressing the most egregious DOC practices, and fully implementing it will require the Department to move away from the punishment paradigm and begin treating people in custody – even those who are engaging in problematic behavior – with dignity and respect.



PROTECTING KIDS. PROVIDING HOPE.

December 11, 2020

Hon. Keith Powers, Chair  
Committee on Criminal Justice  
250 Broadway, Suite 1815  
New York, NY 10007

Re: A Local Law to amend the administrative code of the city of New York, in relation to banning solitary confinement in city jails

Dear Council Member Powers:

Since 1995, Children's Rights has been a national advocate for youth in state systems. Our experience with adolescents and young adults in foster care and juvenile justice systems often brings us into contact with young adult and youth corrections policy, as our clients are disproportionately represented in young adult and juvenile correction facilities. We are concerned that the proposed bill does not contain provisions to ensure the welfare of young adults.

Solitary confinement is torture. It should be abolished outright, no matter the euphemism. As a member of the New York City Jails Action Coalition, Children's Rights supports the Coalition and #HALTsolitary campaign's [Blueprint for Ending Solitary Confinement in NYC Jails](#) to end this barbaric practice.

Children's Rights has several specific concerns with the bill as currently drafted.

First, the bill permits a separate category of people in restrictive housing who are only permitted ten hours out-of-cell time per day. This is not enough for adults, and certainly not enough for young adults. No one incarcerated in New York City's jails should have less than 14 hours of out-of-cell time per day, as generally required by Minimum Standards § 1-05. There should be no exception for anyone placed in restrictive housing.

Young adults should never be placed in any form of restrictive housing—not Enhanced Supervision Housing, not Secure Unit, not separation status housing. Excessive isolation is incompatible with current research and policy for older youth. Because brain development is still

occurring, adolescents and young adults are more vulnerable than older adults to the negative effects of isolation, including increased risk for mental illness or worsened mental illness; anxiety; rage; insomnia; self-mutilation; suicidal thoughts; and suicide. In addition to the immediate harm it presents, isolation can impede brain development and affect long-term cognitive and social abilities.<sup>1</sup>

Second, the bill as currently drafted actually allows incarcerated persons to remain in restrictive housing for 15 days at a time, and up to four months in a year. This does not abolish solitary confinement, but codifies it into law.

Third, for any separation from the general jail population, there must be narrowly defined criteria for what conduct can result in placement into isolation, restrictive housing, and emergency lock-in. There must be specific, uniform due process and procedural safeguards, including access to counsel. This is particularly true for the separation of young adults for de-escalation purposes.

Fourth, all Department of Correction personnel, not just staff in restrictive housing units, should be trained in de-escalation techniques, conflict resolution, the use of force, and related topics to address the needs of all incarcerated persons, including young adults. Especially as more than half the incarcerated persons on Rikers have symptoms of mental illness, commensurate training for Department personnel is essential. In addition, age-appropriate programming, required for young adults under Minimum Standards § 1-02(c)(2), must be regularly and consistently provided. Youth have better outcomes if their unique needs are addressed, and they are not required to navigate systems created for older adults.

We urge the Committee to amend the proposed bill to end solitary confinement in all its forms, reinstate the 14 hours minimum out-of-cell time, provide uniform and adequate due process provisions, and narrowly define terms like “emergency lock-in” to avoid their arbitrary use to perpetuate solitary confinement.

People incarcerated in New York City jails deserve no less.

Sincerely,



Daniele Gerard  
Senior Staff Attorney



Tobin Kassa  
Paralegal

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<sup>1</sup> See December 19, 2014 Public Comment submitted by Children’s Rights to the Board of Correction—*Older Youth Development: Insights from Child Welfare and Implications for New York City Department of Correction Policy and Practice*.

## **Testimony to the New York City Council, Committee on Criminal Justice**

**From Marco Barrios**

**Friday December 11, 2020**

My name is Marco Barrios, a criminal justice advocate with the Urban Justice Center Mental Health Project, and a member of Freedom Agenda. I want to thank the City Council for holding this hearing, and urge to strengthen this bill to make sure it brings about a full and final end to solitary confinement in New York City. As a formerly incarcerated individual, throughout my 24 years and 6 months, I never endured the horror and trauma of solitary confinement. The ability of staying away from this inhumane practice by D.O.C. had to do with not only luck but what I did in there, with the help of God. Over a year ago, I shared with the Board of Corrections my lived experiences in correctional facilities and the witnessing of individuals going to solitary confinement and its effects.

During my incarceration, many of the individuals I witnessed going to the Box had either mental health issues, drug addiction or both. Some did have behavioral health issues however what I find hard to believe is the inconceivable notion that the usage of solitary confinement keeps people safe, deters individuals from committing misbehaviors, and that it is rehabilitative.

Often, what I witnessed when there were some violations of rules and regulations, the individuals that went to the box and came out, were much more bitter and mentally unstable. At times, even more violent. This certainly did not make me feel more safer and I wondered if the correctional staff felt the same. The fact that certain individuals kept going to the box convinced me that this was the wrong way of going about making people in the facility safer, correcting someone's behavior and certainly treating individuals as human beings. As you are all aware, any form of restrictive housing is not only detrimental to a person's mental health, but it is simply inhumane. The fact that there is an actual blueprint to replace this practice should not give any of you Board members any second thoughts of getting rid of this barbaric tool within DOC.

In closing, I know it is not easy to get rid of certain practices that have been in place since the Department of Corrections was created, but you have to do what's right for all of its people in this city. Your decision to get rid of restrictive housing and replacing it with something that will certainly work, will be felt for generations to come.



**TESTIMONY OF:**

**Kelsey De Avila – Project Director, Jail Services**

*Written with Brooke Menschel – Director, Civil Rights and Law Reform*

***BROOKLYN DEFENDER SERVICES***

**Presented before**

**The New York City Council Committee on Criminal Justice**

**Oversight Hearing on Ending Solitary Confinement in New York City Jails and**

**Intro 2173**

**December 11, 2020**

My name is Kelsey De Avila and I am the Project Director of Jail Services at Brooklyn Defender Services (“BDS”). BDS provides comprehensive public defense services to nearly 30,000 people each year, thousands of whom are detained or incarcerated in the City jail system either while fighting their cases in court or upon conviction of a misdemeanor and a sentence of a year or less. Thank you for the opportunity to address the Council on an issue of profound importance.

Each year, thousands of New Yorkers are subject to isolation and segregation inside our City’s jails by the Department of Correction (“DOC” or “the Department”). BDS submits this testimony on behalf of those who we represent—along with their families, friends, and advocates—who are all impacted by the serious trauma caused by DOC’s restrictive housing practices. We urge the Council to follow the advice of countless defenders, doctors, scholars, corrections experts, and human rights advocates by adopting rules that reject torture and move the City towards abolishing all forms of restrictive housing while also enhancing accountability over the Department.

This is a significant moment in our City’s history to right the wrongs isolation has brought to communities devastated by our criminal legal system. Together, we have an opportunity to not just change policy but also to address the serious systemic and cultural attitudes that lead to

widespread violence and dehumanizing treatment of New Yorkers in City custody. As a community, we must hold the City accountable for how it treats people incarcerated by DOC and the long-term effects these policies have had on people and communities by demanding an end to punishment by isolation in our jails.

## Background

Over the years, we have written extensively to the City Council and Board of Correction documenting the detrimental impact isolation has on people, and how the lack of accountability within the Department only exacerbates the harm people face every day while in custody. Around the world, there is a growing consensus that solitary confinement—or isolated confinement by any name—amounts to torture.<sup>1</sup> And that it is not only cruel, but also counterproductive. The physical and mental health impacts of solitary confinement are significant and well documented.<sup>2</sup> The connection between isolation and violence is well-established.

Despite these realities, New York City maintains a complex and sprawling network of solitary confinement units. These units, and those who condone them, are responsible for the suffering of countless people and the death of too many New Yorkers—perhaps most notoriously Kalief Browder and Layleen Polanco. Despite widespread outrage and repeated calls for reform and oversight, the end to “solitary confinement” in New York City remains a moving target.

Within the last five years alone, the Department has created a complex web of isolation units that have the potential to trap people indefinitely. Our City’s jails are now home to units termed Punitive Segregation, Enhanced Supervision Housing, Secure Unit, Deadlock,<sup>3</sup> Solo Housing, Restrictive Housing Unit, and many more. Each of these units severely limit a person’s movement, drastically restrict time spent outside their cell, and completely separate them from any meaningful human contact. These units produce devastating physical and mental health impacts, including death, for those subjected to them and only serve to compound the mental health crisis in our jail system. Each time one unit is shuttered or constrained due to Council or Board intervention, another pops up in its place. Simultaneously, DOC has even tried to hinder efforts to enhance protections for particularly vulnerable groups, such as ending solitary confinement for 18- to 21-year-olds and has tried to limit access to healthcare and treatment for people in restrictive housing.

The Department demonizes people in its custody in an attempt to bully the Council, the Board, and the public into allowing the Department to ignore existing rules and basic standards of human decency. In the face of such pressure, the Board has granted—even if limiting—every

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<sup>1</sup> See for example the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), <https://undocs.org/A/RES/70/175> .

<sup>2</sup> See for example Justin Strong, et al., The body in isolation: The physical health impacts of incarceration in solitary confinement, PLOS ONE, October 2020, Available online at <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0238510>; Fatos Kaba, et al, Solitary Confinement and Risk of Self-Harm Among Jail Inmates, American Journal of Public Health, March 2014, Available online <http://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2013.301742>.

<sup>3</sup> Clients represented by Brooklyn Defender Services have reported they were held on Deadlock status, referring to 24 hours a day lock-in with no access to showers, telephones, law library and recreation. BDS submitted a Freedom of Information Law request to the Board and the Department for policies, procedures or directives concerning Deadlock status but thus far have not received any responsive documents. Even if no such records exist, “Deadlock status” is apparently well-known within DOC.

one of DOC’s variance requests related to restrictive housing and implicitly condoned the Department’s decision to go rogue.

### **Reducing Isolation Improves Health and Safety**

The harms of solitary confinement are well-established, and the record here in New York is replete with evidence. No one should be subjected to the dangerous conditions of restrictive housing.

The United Nations Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, Juan E. Méndez described the danger in a 2015 letter of support for New York’s Humane Alternatives to Long Term (“HALT”) Solitary Confinement legislation:

Research on the effects of isolation indicate that the practice can lead to the development of certain psychotic disorders, including a syndrome also known as “prison psychosis,” the symptoms of which include anxiety, depression, anger, cognitive disorders, distortions of perception, paranoia, and psychosis and self-inflicted injuries. Furthermore, due to the lack of witnesses and the solitude in which such practices are carried out, solitary confinement may give rise to other acts of torture or ill-treatment.<sup>4</sup>

Any use of restrictive housing poses serious, and lasting, dangers to people’s health and, in turn, their communities. Physiological conditions brought on by solitary confinement include gastrointestinal and urinary issues, deterioration of eyesight, lethargy, chronic exhaustion, headaches and heart palpitations among others.<sup>5</sup> Psychological decompensation and trauma caused by solitary confinement includes severe depression, anxiety, insomnia, confusion, emotional deterioration, and fear of impending emotional breakdown.<sup>6</sup> Studies have found that prolonged solitary confinement induces hallucinations and delusions, and bouts of irrational anger and diminished impulse control, leading to violent outbursts and invoking the very behavior it purports to manage.<sup>7,8</sup>

Proponents of solitary claim—without support—that this form of inhumane treatment deters violent behavior and improves safety. Yet time and again, studies find just the opposite.<sup>9</sup> The Vera Institute of Justice reports that the claim that isolation deters misbehavior and violence is

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<sup>4</sup> Letter to NY State by Juan E. Mendez, Solitary Confinement in Prisons Brings Torture Home to New York State, April 22, 2015, available at <http://nycaic.org/wp-content/uploads/2013/02/UN-Special-Rapporteur-on-Tortures-Statement-on-Solitary-in-NY-State.pdf>.

<sup>5</sup> Sharon Shalev, A Sourcebook on Solitary Confinement, 15 (London: Manheim Centre for Criminology, London School of Economics), [http://solitaryconfinement.org/uploads/sourcebook\\_web.pdf](http://solitaryconfinement.org/uploads/sourcebook_web.pdf).

<sup>6</sup> Haney, Craig ‘Mental health issues in long-term solitary and “Supermax” confinement’, in: *Crime & Delinquency*, 49(1) (2003) 133-136.

<sup>7</sup> *Id.*; Grassian, S. (1983), ‘Psychopathological effects of solitary confinement’, in: *American Journal of Psychiatry*, 140(11), 1452.

<sup>8</sup> *Id.*; Gilligan, J., Lee, B., (2013), Report to the [New York City] Board of Corrections, available at <http://solitarywatch.com/wp-content/uploads/2013/11/Gilligan-Report.-Final.pdf>,

<sup>9</sup> See, e.g., *id.*; Facts, Campaign for Alternatives to Isolated Confinement, <http://nycaic.org/facts> (noting that states that reduce the use of isolation in prisons by up to 75% see significant decreases in prison violence); Southern Poverty Law Center, Solitary Confinement: Inhumane, Ineffective, and Wasteful, (April 4, 2019) <https://www.splcenter.org/20190404/solitary-confinement-inhumane-ineffective-and-wasteful> (describing Colorado’s experience that reducing solitary confinement by 85% led to assaults on staff dropping to their lowest point since 2006)

one of the most common misconceptions about solitary confinement: “Subjecting incarcerated people to the severe conditions of segregated housing and treating them as the ‘worst of the worst’ can lead them to become more, not less, violent.”<sup>10</sup> Indeed, the evidence clearly demonstrates that isolation, a practice purported by correctional staff to decrease violence, serves no legitimate purpose.

New York City is not immune from this phenomenon: Time and again, court records, investigations, and media reports demonstrate that our jails, especially those on Rikers Island, are home to astronomical rates of violence. These patterns are particularly evident when people languish indefinitely in solitary confinement. Although the City has made strides to curbing the use of isolation, we have a long way to go.

Despite significant evidence, the Department’s culture is permeated by the notion that extreme isolation and violence are the most effective ways to “correct” behavior. Rather than grappling with the toxic culture in the jails, Elias Husamudeen, former President of the Correction Officers Benevolent Association, has argued against the Board’s limitations on restrictive housing for young people, claiming that the group is the “most violent population of inmates” and that the Board “t[oo]k[away our tools . . . [and] g[a]ve us nothing in place for it.”<sup>11</sup> Similarly, in the most recent report filed in *Nunez v. City of New York*, 11-cv-5845 (LTS), the court-appointed monitor Steve J. Martin characterized the culture among the staff as a “toxic environment” and notes that “[s]taff are often hyper-confrontational and respond to incidents in a manner that is hasty, hurried, thoughtless, reckless, careless or in disregard of consequences.”<sup>12</sup>

Although the “toxic environment” is currently widespread, reducing or eliminating the use of solitary confinement can be a first steps towards significant culture change in the Department. Colorado’s experience can provide a model for the New York City. After the State of Colorado severely curbed the use of long-term solitary confinement, the Executive Director of the Colorado Department of Corrections, Rick Raemisch, described the reasoning for the shift and the resulting culture change:

It is time for this unethical tool to be removed from the penal toolbox. Colorado has ended long-term solitary because the state has developed alternatives to its use. Not everyone agreed with my new policy. But the corrections officers who had initially opposed it changed their minds after they began to see positive results. I’ve seen and been told that the corrections officers are interacting with the [incarcerated people] in a more positive manner.<sup>13</sup>

New York City can and should follow suit. The Department has relied for far too long and much too heavily on isolation as a means to address violence within jails, without prioritizing other methods of discipline which have been proved more effective. DOC must adopt a disciplinary

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<sup>10</sup> *Solitary Confinement: Common Misconceptions and Emerging Safe Alternatives*, Vera Institute of Justice, May 2015, available at [http://www.vera.org/sites/default/files/resources/downloads/solitary-confinement-misconceptions-safe-alternatives-report\\_1.pdf](http://www.vera.org/sites/default/files/resources/downloads/solitary-confinement-misconceptions-safe-alternatives-report_1.pdf).

<sup>11</sup> Jose Olivares, *Despite Scrutiny, Rikers Island’s ‘Culture of Violence’ Persists*, Report Says, Nov. 30, 2017, <https://www.npr.org/2017/11/30/559846083/despite-scrutiny-rikers-islands-culture-of-violence-persists-report-says>

<sup>12</sup> Eighth Report of the Nunez Independent Monitor, No. 11-cv-05845-LTS-JCF, Doc. 332, Oct. 28, 2019

<sup>13</sup> Rich Raemisch, *Why We Ended Long-Term Solitary Confinement in Colorado*, N.Y. Times, Oct. 12, 2017, <https://www.nytimes.com/2017/10/12/opinion/solitary-confinement-colorado-prison.html>

system that provides humane consequences for misconduct, a fair grievance system that resolves problems identified by incarcerated individuals, and secure housing areas without isolation where people who need to be removed from general population are allowed out-of-cell time that mirrors general population, along with programming targeted at addressing the underlying issues that lead to the aggressive or violent behavior.

### **Intro 2173 (Dromm)**

We are grateful to the Council, and in particular Council Member Daniel Dromm, for your leadership in advocating for an end to solitary confinement in NYC jails. Though we appreciate the intent of the proposed legislation and recognize the good-faith effort of the Council to reduce the use of solitary confinement in local jails, we have serious concern with the legislation as written and cannot support Intro 2173 as currently drafted. The proposed bill lacks specificity and creates multiple loopholes which, based on experience, we can expect the Department to use to perpetuate harm against people in custody. BDS is committed to ending the torture of solitary confinement. If the City Council chooses to move forward Intro 2173, we offer the following recommendations.

### **All People in DOC Custody Should Be Provided 14-Hours Out-of-Cell Each Day**

In order to reduce the extensive harm caused by solitary confinement, the Council should mandate a minimum standard of 14 hours out of cell for all people in NYC jails. Such a mandate is not only effective in reducing isolated confinement, it is also consistent with the Board of Correction's current standards<sup>14</sup> and should be required for all people in DOC custody without exception.<sup>15</sup> While separating people may be necessary at times, it should be done in a limited and targeted fashion that ensures everyone's safety. Wherever possible, people should be separated from other specific individuals rather than from any other human contact. If a person needs to be separated from all others during informal out-of-cell time, they should still be afforded programming out of cell to promote socialization and appropriate conduct. Fourteen hours out of cell time and robust programming are possible—if not even more important—for those assigned to restrictive housing or isolation units. While the content of programming or out-of-cell time might be revised or other benefits curtailed, the basic human necessity of leaving a cage and interacting with other people must not be compromised.

### **Ensure Vulnerable People are Excluded from all Isolated Confinement**

While BDS, along with countless medical, corrections, and human rights experts, advocate for 14 hours out of cell as the appropriate standard for all people, there should be explicit language in the bill to ensure the most vulnerable people in DOC custody are never placed in any form of restrictive housing. The exceptions and exclusions in the current draft of the proposed bill should be expanded to ensure that all vulnerable people—people under age 26<sup>16</sup> or over 50, pregnant

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<sup>14</sup> Board of Correction Minimum Standards, § 1-05 (noting that no person may be involuntarily locked in a cell in DOC other than eight hours at night and two hours during the day for count).

<sup>15</sup> The current exception allowing the Department to lock people in punitive segregation or Enhanced Supervision Housing ("ESH") units in their cells for more than the otherwise allowed 10 hours each day should be eliminated.

<sup>16</sup> One of the reasons that isolation is particularly harmful to young people is that during adolescence, the brain undergoes major structural growth. Particularly important is the still-developing frontal lobe, the region of the brain responsible for cognitive processing such as planning, strategizing, and organizing thoughts or actions. The brain is still developing through age 25, and the harms of isolation, light deprivation and lack of meaningful interaction can lead to significant damage. The proposed rules exclude young adults from punitive segregation up to age 22, but still subject younger people 18-21 to the harms of Enhanced Supervision Housing and Secure where hours out of cell are

people,<sup>17</sup> people with diagnosed serious mental or physical ailments, people who suffer from physical or cognitive impairments, people subject to a heightened risk of self-harm, and others—be excluded from all forms of restrictive housing.

### **Out of Cell Time Must be Meaningful and Clearly Defined**

The importance of out of cell time on a person’s mental and physical wellbeing is widely accepted among medical professionals, security experts, human rights scholars, and advocates. It is well-established that to prevent the mental and physical decompensation of a person while also ensuring a basic level of safety in restrictive housing, people must have access to meaningful out of cell time. Nonetheless, the Department fails time-and-again to provide appropriate and sufficient out of cell time for people in restrictive housing in its custody. The Board is well-aware of this deficiency.<sup>18</sup> Intro 2173 ignores this systemic shortcoming by failing to define “meaningful” out of cell time.

If “out of cell time” is comprised of walking handcuffed through a corridor, listening to commands of an officer as he escorts you to an appointment, or answering a medical provider’s questions through a door, the whole purpose of out of cell time is undermined. Instead, people must have engaging, face-to-face interaction with other human beings. Equally important, people must not be forced to choose between basic health or legal obligations and the opportunity to participate in meaningful, engaging programming. If legal visits, showers, or medical appointments count as out of cell time, the notion of mental, physical, and social stimulation is completely lost. These concepts must be inherent in the bill, and we urge the Council to define adequate out of cell time that is meaningful and not merely composed of incidental contact.

Equally problematic, certain units by design prevent people from any meaningful human out of cell time. Units designed so that when a person leaves their cell, they only enter a cage which violates the entire concept and spirit of meaningful out of cell time. For example, BDS recently represented a young man held in the Restraint Unit at NIC.<sup>19</sup> Each time he was “allowed to leave his cell”—presumably for mandated “out of cell” time—he moved a few feet out of his physical cell but remained literally caged, alone, and isolated without any human contact. These units provide none of the meaningful stimulation that is critical to counteracting at least some of the trauma caused by isolations.

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limited. The rules should be more inclusive and expansive, prohibiting isolation of all young people 25 years of age and younger from any form of restrictive housing.

<sup>17</sup> Subjecting a pregnant person to any level of restrictive housing is barbaric. In 2015, the Correctional Association of New York released a report stating that “Solitary is especially dangerous for pregnant women because it impedes access to critical OB care and prevents women from getting the regular exercise and movement that are vital for a healthy pregnancy. High levels of stress are hazardous for pregnant women, lowering their ability to fight infection and increasing the risk of preterm labor, miscarriage and low birth weight in babies.” Kraft-Stolar, Tamar. *Reproductive Injustice: The State of Reproductive Healthcare for Women in New York State Prisons*. The Women in Prison Project of the Correctional Association of New York (2015): 149.

<sup>18</sup> See, e.g., Board of Correction, An Assessment of Enhanced Supervision Housing for Young Adults, July 24, 2017, 25, <https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/2017.07.24%20-%20FINAL%20YA%20ESH%20Report%207.24.2017.pdf> (finding evidence that young people were not afforded the requisite number of hours out of cell due to lockdowns, security procedures, staff shortages, staff tardiness, and delayed busses, among other reasons)

<sup>19</sup> The young man believed he was being held in an ESH unit—evidence of the Departments lack of transparency and failure to provide information to impacted people.

The rules must ensure that meaningful out of cell time is just that: meaningful and outside of a cell. Isolated time in a second cell is clearly not out of cell time nor is it meaningful engagement or stimulation. We urge the Council to define out of cell time makes clear that the purpose of this time is to ensure all people in custody, whether in general population or restricted housing, are provided with the necessary space and contact needed to preserve their mental and physical health, while also ensure the safety of people in custody and staff.

### **Continued Isolation by Another Name is Not an Alternative**

In late 2013, DOC, along with the Department of Health and Mental Hygiene (“DOHMH”), (which then housed Correctional Health Services (“CHS”)), created two alternative models to solitary confinement: Restrictive Housing Unit (“RHU”) and Clinical Alternatives to Punitive Segregation (“CAPS”). Both were intended to address violent behavior by moving away from purely punitive isolation to a more therapeutic approach. While the adoption of this new strategy allowed the Mental Health Assessment Unit for Infracted Inmates (“MHAUII”)—a notorious solitary confinement unit for people with mental illness—to close, the RHU has failed to meet its charge.<sup>20</sup>

Recent experiences of people isolated in the RHU confirm these realities. Layleen Polanco, the transgender woman whose death on June 7, 2019 cast one recent spotlight on the Department’s solitary confinement practices, was held involuntarily in a Restrictive Housing Unit when she died.<sup>21</sup> Similarly, multiple BDS clients reported in December 2019 and January 2020 that they were isolated in “punitive segregation” and locked in their cell for at least 17 hours each day. Only after BDS investigated the cases did we learn that these people were assigned to an RHU.

The Restrictive Housing Unit is not an alternative to solitary confinement, it is simply solitary confinement by a different name. People with recognized mental health needs should be afforded a therapeutic environment run by trained clinical staff, not a punitive lock up divorced from meaningful engagement. The proposed legislation should abolish the RHUs or mandate such fundamental changes that such confusion is no longer possible.

### **The Department Should Adopt Evidence-Informed Alternative to Isolated Confinement**

By contrast, the other “alternative” to solitary confinement adopted in 2013, Clinical Alternatives to Punitive Segregation (“CAPS”) provides a model for success.<sup>22</sup> CAPS units have proved to be

<sup>20</sup> A 2016 article published by CHS staff noted that health staff members’ efforts to foster a therapeutic environment in the RHU largely failed because “RHUs are designed to deliver punishment via solitary confinement at the same time that clinical staff are working to engage patients in group and individual therapy for 1–4 h[ours] per day.” The article further acknowledged that “[f]or many patients, the reward of moving from one hour out of cell to two hours out of cell is not a qualitative improvement. In addition, health and security staff on these units face very complicated tasks in getting the appropriate patients out of cell for the allotted times, leaving room for patients to not receive the time out of cell or other benefits they deserve and setting the stage for discord.” Sarah Glowa-Kollisch, et. al, *From Punishment to Treatment: The ‘Clinical Alternative to Punitive Segregation’ (CAPS) Program in New York City Jails*, Feb. 13, 2016, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4772202/>

<sup>21</sup> Rose Goldensohn and Savannah Jacobson, *Woman Who Died at Rikers Island Was in Solitary*, June 10, 2019, <https://thecity.nyc/2019/06/woman-who-died-at-rikers-island-was-in-solitary.html> (“The restrictive housing unit where [Ms.] Polanco died stays in lockdown for 17 hours out of the day.”)

<sup>22</sup> CAPS was “designed as [a] clinical setting where patients would not be locked in isolation, but would instead participate in a comprehensive schedule of therapeutic activities, including psychotherapy, creative art, nursing education groups, individual mental health and medical encounters and community meetings with patients, health and security staff. The CAPS units are lock-out units, meaning patients are encouraged to spend their days outside

an alternative to solitary confinement that addresses behavior without resorting to the inhumane practice of isolation, but rather through meaningful engagement, increased out of cell time, and targeted programming to address needs and behavior. CAPS units provide intensive treatment and successfully reduce violence, yet far too few people are afforded this resource. Rather than allowing the Department to develop additional units that only isolate people and undermine safety, the Council should support the proliferation of the CAPS model, which provides effective programming targeted at the underlying reason for problematic behavior. Such units not only prevent trauma and protect people, they enhance safety and security throughout the entire DOC system.

Around the country, other systems have developed successful models that the Department can draw from to create effective alternatives to solitary confinement.<sup>23</sup> The City can invest, and the Department should welcome, true evidence-based practices and strategies that are successfully reducing violence and keeping people safe. The continued pushback the Department and COBA exhibit before the Board and the Council demonstrate the lack of willingness on behalf of DOC staff to expand the “toolbox” of strategies for dealing with challenging behavior. This attitude is unacceptable and outdated. If we continue to treat incarcerated people as undeserving of treatment and growth, and unworthy of a change, we will find ourselves in an unending cycle of violence.

### **Placement in Restrictive Housing Must Be Subject to a Hard Limit**

There is no evidence anywhere—in academic literature, correctional best practices, or Department of Correction submissions—that suggests longer, continuous isolation sentences successfully deter or reduce violence. On the contrary, evidence suggests that reducing the use of solitary improves jail safety.

People in solitary confinement routinely report that they are denied basic needs like toilet tissue or access to the telephone to call their families or their attorneys. They describe an inability to access medical care. They report that they cannot get attention from the mental health staff when they well up with anxiety from existing in a filthy concrete box, without contact with other human beings. In order to access these basic needs, people resort to small protests like holding

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their cells interacting with others unless there is a clinical reason to be in their cell. A key design component of the CAPS unit was to form a team with health and security staff working together to promote improved clinical and security outcomes.” Data reported in 2016 demonstrates the success of the approach: CHS staff reported that for CAPS “patients, their rates of self-harm and injury were significantly lower while on the CAPS unit than when on the RHU units.” BDS clients placed in CAPS units report similar positive outcomes. Sarah Glowa-Kollisch, et. al, *From Punishment to Treatment: The ‘Clinical Alternative to Punitive Segregation’ (CAPS) Program in New York City Jails*, Feb. 13, 2016, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4772202/>

<sup>23</sup> For example, San Francisco’s Resolve to Stop the Violence Project (“RSVP”) relies upon group discussions, classes, intensive counseling, and meetings with victims of violence to promote safety and security. The widely studied program, designed to “reduce recidivism and to promote offender accountability,” has been an overwhelming success. In addition to the positive impact on recidivism rates, the program has been an economic success as well. “[W]hile it is difficult to place a price on protecting the general public and on the quality of life that comes with safety, . . . [t]he imprisoned offender requires approximately . . . \$68/day. For inmates’ families who go on welfare as a result, the costs on average is an additional \$21/day. All this is without counting medical spending, work loss and need for public programmes, not to mention offender criminal processing, adjudication, probation and parole, unpaid state or federal taxes, and the escalating cost of building new prisons as a result of overcrowding. . . . Added together, the benefits that offenders and the public derive from violence prevention programmes such as RSVP are immense.”

open the slot through which they are fed or flooding their cell. When they do, the response for the Department to send a “probe team” to forcefully extract the person from their cell. In almost all cases, the person will receive an infraction for resisting staff or assault on staff as a result of the extraction, leading to ever-longer stays in isolation. This cycle of violence only escalates as people become more desperate and restless about their conditions. Some individuals who feel their only agency lies in an act of disobedience may carry this sentiment with them into General Population – the harm of solitary reverberates through an entire system.

The solution to recurrent behavioral problems or violent conduct after release from solitary confinement is not to extend the sentences. The continued use of harmful isolation fails to engage individuals in pro-social behavior and forgoes the development of skills for resolving conflict without reliance on violence. Solitary confinement is a form of punishment; the perpetration of violence to stop violence is never successful.<sup>24</sup>

Instead, replacing isolation with therapeutic programming and controlled social integration is more productive—and promising—counter to problematic conduct. If we are serious about changing the culture of abuse in our jails, we must start by imposing a hard limit on the use of isolation and not allowing the Department, and the City of New York, to continue to flout international standards.

### **Provide Oversight and Prevent the Expansion of Restrictive Housing**

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 and avoids the impact of the policy change. The nomenclature has been equally varied: over the years, DOC has introduced “Secure,” ESH, 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 Department creates new units to isolate people under the guise of security concerns. Each time, they do so without transparency or accountability for the novel approach. Housing and security designations, including “separation status” and “deadlock,” are forms of extreme isolation used by DOC that deny people basic human necessities with no meaningful way to appeal and without any imposed time limitations. And because they appear so frequently, there is little to no opportunity to challenge their creation. By the time we learn of the new units, they are fully entrenched, and the Department is seeking approval from the Board to continue their operation.

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<sup>24</sup> The *Nunez* complaint provides instructive examples of DOC’s role in perpetuating the cycle of violence by documenting six examples of assaults by staff that DOC falsely claimed were assaults perpetrated by the incarcerated person. Five of the eleven named plaintiffs were sentenced to punitive segregation for purportedly assaulting the staff who beat them. *Nunez v. City of New York*, 11 Civ. 5845, amended complaint, filed May 24, 2012. Relatedly, a Department of Justice (“DOJ”) report uncovered a pervasive pattern of false and inaccurate reporting about uses of force and questioned the overall reliability of data being used to justify the expansion of segregation. The report documents “[u]se of force reports in which staff allege that the inmate instigated the altercation by punching or hitting the officer, often allegedly in the face or head and for ‘no reason,’ ‘out of nowhere,’ ‘spontaneously,’ or ‘without provocation.’ But then the officer has no reported injuries...” Department of Justice, *CRIPA Investigation of the New York City Department of Correction Jails on Rikers Island*, August 2014, 5, 25, <http://www.justice.gov/sites/default/files/usao-sdny/legacy/2015/03/25/SDNY%20Rikers%20Report.pdf>.

If the Council is serious about treating those the City incarcerates as human beings and curtailing violence in our jails, Intro 2173 must clearly define the rules for restrictive housing and eliminate any possibility of violating the Board's current minimum standards. Collectively, we must demand transparency and implement meaningful protocols for *all* forms of isolation, not just some. We urge the Council to close the loopholes in this bill that will allow DOC to make small tweaks to its practice while continuing the pervasive use of isolation. Indeed, torture by another name is still torture.

**Include Robust Due Process Protections**

On a daily basis, we hear from people that we represent that they have no notice of disciplinary sanctions or other potential changes to their status in DOC, no ability to advocate for themselves, and no sense of how to navigate within DOC's complex bureaucracy. We regularly hear from people who cannot access grievance forms or legal materials, cannot safely report complaints, and cannot respond to requests for information because of barriers artificially imposed by the Department.

These due process violations—and dozens of others too numerous to mention—are unlawful, inexcusable, and avoidable. We urge the Council to incorporate protections into the proposed bill Intro 2173.

On the most fundamental level, people are frequently transferred to a restrictive housing unit without any notice or understanding of the reason behind the transfer. On one recent occasion, one person living with mental illness we represented struggled to understand why he was transferred to “the Box” despite never receiving a ticket nor being brought for a hearing. Although he repeatedly asked for information from officers in his unit and placed multiple calls to 311, his requests went unanswered. Understandably, he became agitated that he was being isolated for no apparent reason. BDS made numerous requests to DOC all which went unanswered leaving this man to languish in restrictive housing for a week, after which he was finally reassigned to general population without further explanation. We later learned that his placement was the result of a delayed sentence for insubordination. His story is hardly unique, as we hear similar requests for information each day.

Relatedly, people in DOC custody are regularly sentenced to time in restrictive housing as a result of an *in absentia* order, allegedly required because the person refused to attend a disciplinary hearing. BDS has reason to question these rulings. When we contact DOC at a person's request to attempt to secure a disciplinary hearing, we are routinely told that the same person refused to attend a hearing. These claims are inconsistent with conversations we've had with people in custody who have reached out for help. One recent example of a man who repeatedly requested a hearing is instructive. After days of asking for a hearing, another individual detained in the same restrictive housing unit told the man that he overheard officers say that they were marking the form “refused” and noting that the man—who was involuntarily locked in his cell for upwards of 17 hours each day and had been literally begging officers to bring him to a hearing—had not responded when the officers knocked on his door. Disheartened, the man gave up and simply accepted that he would likely have to serve additional time in solitary confinement for an offense he did not commit.

For those people who do manage to attend a hearing, additional protections are critical. Because of the structure of the disciplinary system, a person faces a heavy presumption of guilt from the moment they walk into an adjudication. Although the officers who adjudicate hearings claim to be impartial, the system is anything but. Instead, hearings are adjudicated by the Department, often controlled by the officers or colleagues of the officer who wrote an initial ticket, with adequate notice to any member of the DOC staff who wishes to submit evidence, in a room within DOC rather than at a neutral site. Any person brave enough to appeal—particularly from a restrictive housing unit—simply faces more of the same: they are at the mercy of corrections officers to deliver the appeal, which will then be adjudicated by yet another member of the Department. The overwhelming majority of people charged with rules violations are found guilty.

The disciplinary hearing process remains shrouded in secrecy within the closed jail system, with little public reporting and accountability. To make matters worse, people who are incarcerated have no right to counsel in these hearings, despite the gravity of the outcome. The people we represent have no opportunity to choose their own representatives or seek assistance from a trusted, impartial advocate in these hearings. While people incarcerated in DOC custody have lawyers who are often ready and willing to advocate on their behalf in disciplinary proceedings, their counsel is unable to do so because of Department rules. New York City is fortunate to have a robust public defense system filled with dedicated attorneys, social workers, and advocates eager to speak up for their clients. We urge the Council to collaborate with the City's legal service providers and other members of the defense bar to develop a system that notifies defense attorneys immediately when a person receives a ticket and allows people in custody to be represented in their disciplinary hearings.

Due process is the cornerstone of our legal system and it should be the cornerstone of the Council's proposed bill. We urge the Council to incorporate as many due process protections as possible into the bill before it is voted on. Any person in restrictive housing or facing a restrictive housing sentence, should have adequate notice of any sanctions they face, a full understanding of the reasoning behind any disciplinary action, and an opportunity to present their version of events with the aid of a qualified advocate or legal representation.

### **Young People and their Education Should be Protected**

In the wake of Kalief Browder's tragic death, the Board heeded the call of defenders, directly impacted people, advocates, and mental health professionals, and implemented new minimum standards to dramatically curtail the use of existing solitary confinement units in City jails and prohibit it altogether for young people. However, the Department's continuous variance requests allowed DOC to create new units for the indefinite isolation of the very people BOC sought to protect. As a result, the standards failed to bring about the fundamental transformation of the punishment paradigm that was, and still is, required. Young people still languish in isolation in Secure and ESH. When they emerge, they are irreparably harmed. These units require complete and fundamental overhaul to prevent future deaths.

Simultaneously, the Council should ensure that New York City's promise that young people have a right to receive an education through the school year in which they turn 21 is in fact a reality. Despite this unequivocal right, we hear all too often that it is nearly impossible for young people—both inside and outside of restrictive housing units—to access educational services. Unsurprisingly, the problem is especially serious in restrictive housing units. Indeed, the July

2018 monitoring report in the *Handberry* litigation specifically identified restrictive housing units as perhaps the least compliant in terms of ensuring young people had access to school.

We hear these complaints on a regular basis. One young person recently was eager to work toward getting his high school equivalency credential (TASC) while on Rikers Island. After some advocacy, he was able to attend school regularly and happily reported that he was making progress toward earning his TASC. Unfortunately, that ended once he was transferred to a Secure unit. While there, his school attendance was spotty at best, and he lost much of the momentum that he had built up going to school daily. Another young person, also working to earn his high school equivalency—who spent a significant amount of time in TRU—reported that he received no educational services while in TRU. Once he came out of restrictive housing, he gave up trying to go to school on Rikers because, in his words, “it just wasn’t worth it.”

As drafted, the proposed bill fails to provide a guaranteed right to access educational programming. We urge the Council to ensure that the bill clearly recognize the right of all young adults to receive educational services, as well as concrete provisions aimed at ensuring that young people have every opportunity to realize this right. Relatedly, the bill should include the need for an immediate written plan detailing the Department's approach to discipline and behavior management for young adults in custody. The Board has repeatedly acknowledged that the lack of a written plan makes it sheer impossible for the Department and the Board to effectively measure tools, and strategies for young adults. The Council could address this glaring failure of the Department to require DOC to provide written plans for young adults in their custody.

### **The Department’s Safety Objectives Cannot Endanger People’s Health**

One of the most significant challenges people in restrictive housing face is accessing medical and mental health care. Correctional officers routinely serve as gatekeepers without the requisite knowledge or training. For instance, to access medical care in a DOC facility, an individual must submit a “sick call” request to officers in their housing unit, who are responsible for forwarding requests to medical staff. Far too often, correctional staff fail to forward sick call requests to the medical staff or falsely claim that an individual “refused” to be brought to their appointment. Relatedly, developmental or cognitive delays often go unnoticed or unrecorded during screening, meaning manifestations of disabilities—such as difficulty following instructions—often lead to time in restrictive housing.

While these situations threaten the health and well-being of all people in custody, they are especially dangerous for those isolated in restrictive housing—regardless of the name of the particular unit. For instance, one man BDS represented was sentenced to solitary confinement. Despite written notification from medical staff outlining his seizure disorder and the resulting danger of placing him alone in a cell, the Department isolated him. The isolation exacerbated his medical condition, leading to more regular seizures and a serious injury during a fall. Nonetheless, DOC denied his transfer to an open dorm and opted instead to assign an officer to provide regular check-ins. Because the officer was regularly absent or asleep, the arrangement did not prevent additional harm. In another case, a person we represent was sent to solitary confinement despite using a wheelchair and requiring round-the-clock medical care and full-time assistance with basic activities. Although he was released to a more medically appropriate housing assignment following advocacy by our office and the Board, his health had already decompensated significantly as a result of a few days in isolation.

In these cases, and countless others, Department staff who were not trained medical clinicians determine the housing conditions for people with disabilities or other chronic conditions, despite the knowledge that the setting will have a direct impact on people's health and well-being and access to critical medical care. This is incredibly troubling, especially for those people who do not have advocates who are able to intervene on their behalf and bring attention to their situations. DOC's ability to control the medical treatment of people in their custody requires serious oversight by the Board and Council. As written, the bill does not address DOC's role and we fear it will only grant the Department a license to continue DOC's role as gatekeeper to medical care. Instead, we must bolster CHS's authority and ensure CHS—not DOC—has an ultimate veto over all restrictive housing decisions.

**Provide access to treatment and programming for all**

Incarcerated people are regularly denied the opportunity to access specific programs or treatment because of high security classifications, housing placements, or disciplinary consequences. These programs--which serve as powerful evidence that a person is productive, engaged, and wants to participate in their own defense and well-being--are all-too-often unavailable to our clients because of alleged security concerns or housing placements. One glaring example is drug treatment programs. Broad groups of people are denied access to important programs for their substance use disorders because of high security classification or unsubstantiated gang allegations.

In a recent case, one BDS criminal defense attorney successfully advocated that a person she represented, who had a history of substance use, would serve reduced jail time if he participated in a particular program. Despite agreement of the man's parole officer and the District Attorney, the man was denied admission into the program because of his high classification, the result of a decade-old incarceration where DOC identified him as gang affiliated. Although the client was not in a gang and was fully committed to participating in the program and turning his life around, he was not able to move forward with the agreement because of the classification.

Programs like drug treatment should be available to all who may benefit, regardless of classification, sentence, or housing assignment. Situating access to treatment and medical decision-making as the exclusive domain of healthcare providers, not DOC, is essential.

Department staff are not medically trained to recognize contraindications to restrictive housing placements. It is not possible nor appropriate for Department staff to make housing decisions when input from healthcare staff is ignored. Instead, Correctional Health Services must ensure that people's medical and mental health needs are met. CHS staff are the on-the-ground advocates that people rely on. The bill should address the gaps in care and the potential for DOC to make medical decisions that can and will directly harm individuals. CHS must have the ultimate authority to remove a person from restrictive housing or prevent an initial placement. To ensure this option is a practical reality and not merely illusory, CHS must be notified immediately anytime someone is transferred to any type of restrictive housing. Further, CHS must be provided the resources and access to ensure constant and continuous rounding.

**Include mechanism to prevent variances from this legislation's protections**

The Board of Corrections often grants variances to allow the Department of Corrections to authorize waivers to compliance with the Minimum Standards. To end solitary confinement,

there must be a mechanism to prevent the DOC from requesting variance to circumvent protections. The legislation should make explicit that the BOC does not have the authority to provide waivers to any of the legislation's protection. This should not prohibit the BOC from issuing any rules that are more protective of people who are incarcerated.

### **Create minimum standards for emergency lock-in**

We encourage the Council to remove emergency lock-in from this legislation. If it is included, the definition must be amended to include a specific time limit. As written, this provision may allow DOC to keep people isolated, potentially indefinitely, without protection. Lockdowns amount to group punishment, apparently used by DOC as a convenient management tool with little regard for the rights of people in its custody. People are effectively held in solitary confinement for days at a time with no due process.

If it remains in this bill, there should be strict criteria for what constitutes an emergency, who can impose an emergency-lock in, only after exhausting all less restrictive options (for example, separating individuals who are causing the emergency rather than locking down an entire unit), and an hourly review—signed off by a captain or higher—to continue the lock-in. CHS and BOC must be notified.

### **Conclusion**

Solitary Confinement. Segregation. Isolation. Restrictive Housing. No matter the term the results are the same: trauma, suffering and torture. The practice is a moral stain on our City that threatens the safety of our communities. We can no longer accept it as standard practice in our jails. Instead, we must create a society where we do not resort to violence but rather provide individualized treatment, therapeutic environments and socialization to end the cycle of violence in our jails and to promote safe communities. We urge the Council to pass legislation that eliminates the torture of solitary confinement and reflects the following standards:

- All people—without exception and regardless of housing placement—should be afforded 14 hours out of cell each day, during which they have access to meaningful engagement and programmatic activities;
- The most vulnerable people in the Department's custody should be excluded from any type of restrictive housing or isolation;
- Eliminate punitive segregation ;
- Expand programming units that address behavior and violent misconduct;
- People should be allowed legal representation or an advocate during adjudication hearings;
- Eliminate gaps in the rules that would allow the Department to create new forms of isolation or new restrictive housing units;
- Medical and mental health staff should be the ultimate gatekeeper of when and how often people in custody access medical and mental health care.

Every day the City fails to end the trauma that results from solitary confinement is another day lives are lost and minds are destroyed in New York. The time to act is now.

BDS is grateful to the Committee on Criminal Justice for hosting this important hearing and continuing to call attention to the horrifying realities of solitary confinement in New York City

jails. Thank you for your time and consideration of our comments. We look forward to continuing to discuss these and other issues that impact people we represent.

If you have any additional questions, please feel free to contact me at [kdeavila@bds.org](mailto:kdeavila@bds.org).

**Testimony before the Committee on Criminal Justice****Council Member Keith Powers, Chair****December 10, 2020****Oversight – Ending Solitary Confinement in New York City Jails and****Int 2173-2020**

My name is Andrea Bowen. I am a consultant for the Sex Workers Project at the Urban Justice Center. The Sex Workers Project at the Urban Justice Center provides client-centered legal services to individuals who engage in sex work, regardless of whether they do so by choice, circumstance, or coercion.

Thank you, Chair Powers, Council Members and staff supporting the Committee on Criminal Justice, for this hearing. Thank you to Council Member Dromm for introducing Intro 2173, and for you and your colleagues' support of ending solitary confinement as this is an urgent human rights issue. We at the Sex Workers Project agree with Council Member Dromm, and our many allies today, that solitary confinement is torture.

Last week we testified in support of Council's resolution regarding the Walking While Trans ban, and Intro 2173 is in that spirit—making sure the City and State do all they can to save the lives of those victimized by the carceral system, which disproportionately includes Black and Latinx transgender sex workers. With all respect to Council's good faith effort to stop solitary, Intro 2173 must be strengthened to end solitary confinement in all forms. Quoting from our colleagues in the HALT Solitary campaign, Layleen Polanco was held in what "was supposed to be an alternative to solitary," and "at the time she died she had only been locked in her cell for two hours." We fully support HALT Solitary's full outline of concerns about this legislation.

It should also be noted that this conversation integrally includes the need to eliminate the NYPD's Vice squad, a greater than \$18 million drain on this City's budget *and* moral standing. A vice arrest was a major event leading to Layleen Polanco's death. As this week's ProPublica expose revealed, even members of Vice acknowledge the need to defund it. Vice is part of an irredeemable system that deprives people of their human rights to bodily autonomy, health, and so much more.

Thank you so much for your attention to these issues, holding these hearings, and constantly being in conversation with marginalized communities to address long-standing, and ongoing, injustice.

For more information, contact Andrea Bowen, [andy@bowenpublicaffairs.com](mailto:andy@bowenpublicaffairs.com), 917-765-3014, SWP Government Affairs Consultant, or Mariah Grant, SWP Director of Research, Organizing and Advocacy, [mgrant@urbanjustice.org](mailto:mgrant@urbanjustice.org), 541-554-7765



Close Rosie's • 534 w 187<sup>th</sup> St. #7 New York, NY 10033  
<http://www.CloseRosies.org>

December 11, 2020

To: Council Member Dromm, the Public Advocate (Mr. Williams), Council Members Lander, Reynoso, Rivera, Levin and Rosenthal:

RE: Intro No. 2173, A Local Law to amend the administrative code of the city of New York, in relation to banning solitary confinement in city jails

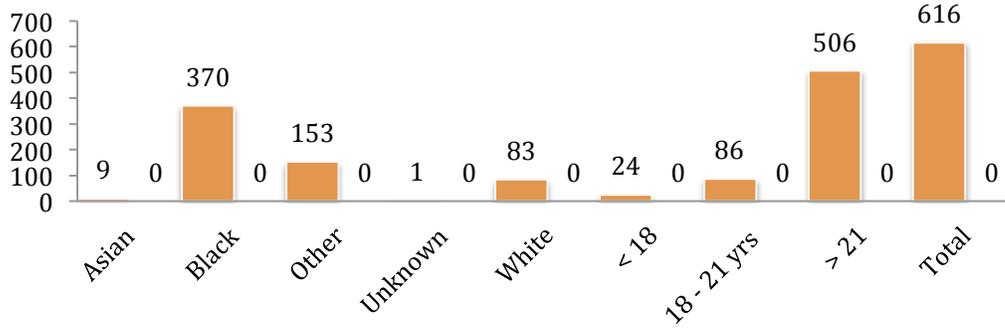
Good Morning: I am Kelly Grace Price, the founder of Close Rosie's. I thank the Council for allowing me the chance to speak. I would like to address four main issues this morning:

- 1. Current profile of women in solitary-like conditions on Rosie's**
- 2. Lessons learned from past BOC Restrictive Housing Rulemaking (ESH) & City Council Legislative Attempts at DOC oversight ref Local Law 21.**
- 3. Suggested Reporting Requirements for Int. No. 2173:**

- 1. Current profile of women/girls/trans/intersex/gender non-conforming persons in solitary confinement-like conditions on Rosie's:**

Solitary Confinement of Women & Girls on Rosie's

## Punitive Segregation, Solitary Confinement & Protective Custody: aka "The Bing" Over the Past Five Years



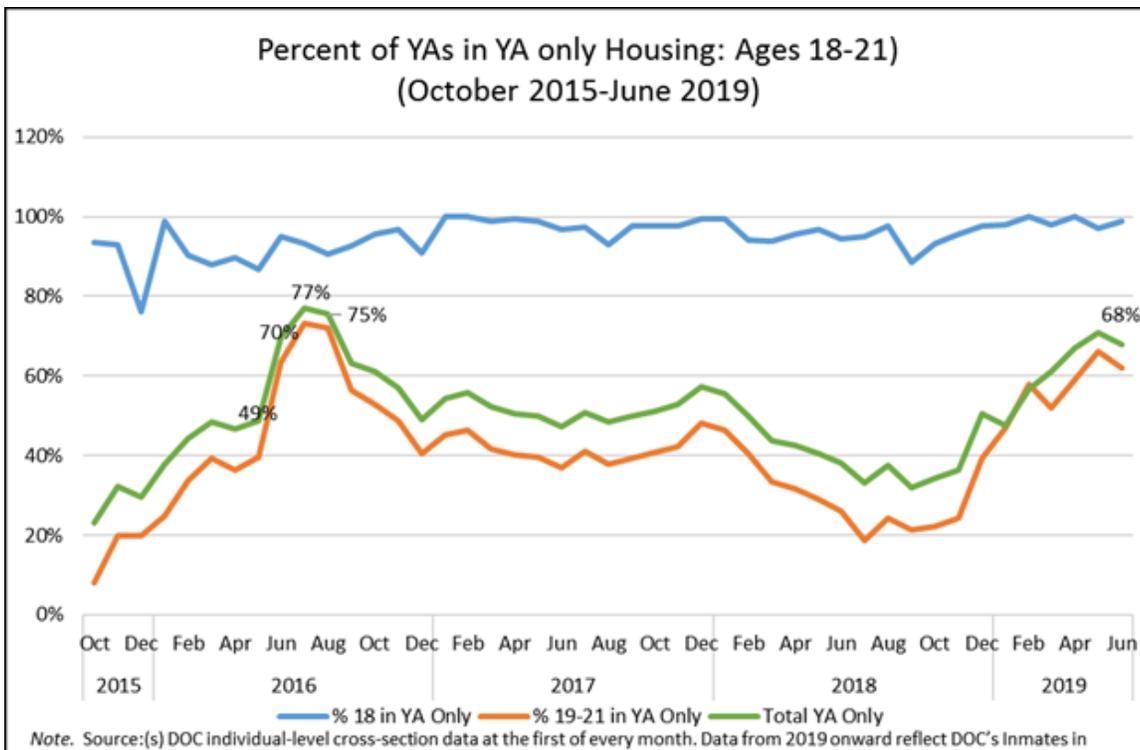
	# Women/Girls in the Bing	Average Days in
Asian	9	28 days
Black	370	28 days
Other <sup>1</sup>	153	26 days
Unknown	1	9 days
White	83	33 days
< 18	24	23 days
18 - 21 yrs.	86	36 days
> 21	506	27 days
Total	616	28 days

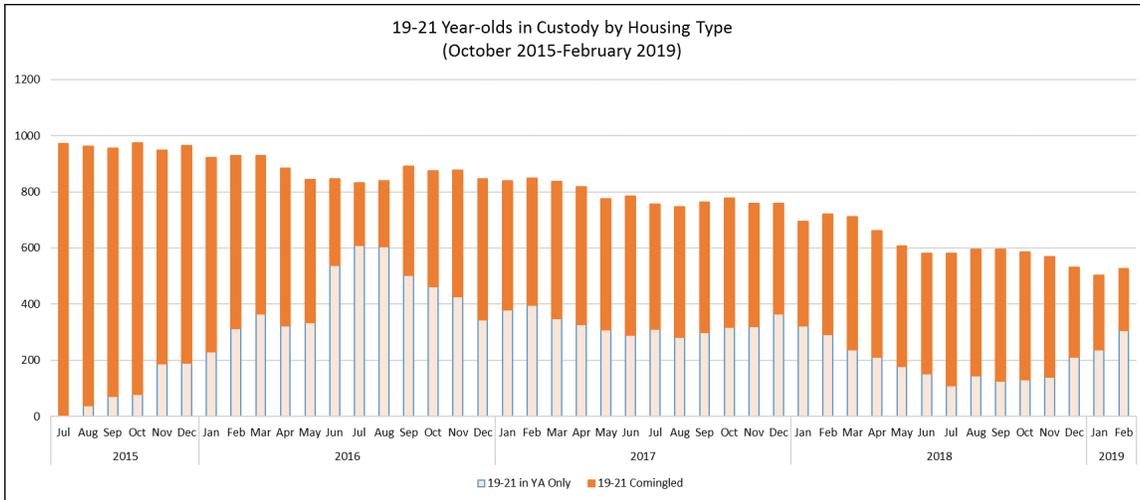
- Girls under the age of 18 spent 552 days in solitary or solitary-like confinement.
- The average time spent in Solitary by white women and girls is 33 days. That's ~20% higher average days in the Bing than averaged by Black, Asian & those women and girls classified as "other" by the DOC.
- The DOC does not appear to track Latinx persons placed in ESH/solitary-like conditions at Rosie's. Latinx persons are clumped into the category of "other."

<sup>1</sup> The NYCDOC did not provide information about Latinx women, girls, trans, intersex or gender non-conforming persons in solitary or solitary-like confinement on Rosie's.

**2. LESSONS LEARNED from past Council Legislative Efforts at DOC**  
**Enforcement/Oversight:**

A. ESH: In 2014 the NYC BOC embarked on a rule-making process around the creation of “new” Enhanced Supervised Housing (ESH) to ‘replace’ the practice of solitary confinement on Rikers. The process was long, contentious and arduous. An extra BOC hearing was scheduled in December of 2014, as more time was needed to debate and discuss the final vote. In January new BOC members appeared and a vote was finally pushed through: the board approving the practice with conditions. One of the rules that came of ESH rulemaking was that the practice of using blended units (housing units that mix youth under the age of 21 with adults) had to be reported on monthly. [These reports can be found currently on the BOC website](#): but the data and information provided in these reports conflicted with a July 2019 posting on the BOC’s website entitled: [“Are Young Adults housed with adults?”](#)





**The data posted in the monthly housing reports didn't include data on YA's placed in Adult units: they only count people in units already labeled as YA units. If a young adult was placed in a unit labeled an Adult Unit that head is not included in the tally for "# YAs in Co-mingled Housing Areas." Only YA have in units labeled, as YA units that have some adults in them are included in this reporting. This is nutsy. Close Rosie's has identified as many as ten reports with data that conflicts with the July 2019 data and will continue my evaluation.**

Across the board the numbers reported were conflicting/different ref co-mingling in the different data posted by the BOC. For instance:

[The BOC Oct 2018 YA Monthly Housing Report says there were 299 YAs ages 16-21 in YA ONLY housing.](#)

[BUT The July 2019 BOC graphic in the new data report shows only around ~210 YAs in YA ONLY housing in Oct 2018...](#)

Facility	# YAs in YA-only Housing Areas	# YAs in Co-mingled Housing Areas	# Total	% of total YA population
GRVC	31	24	55	7.8%
OBCC	14	82	96	13.7%
EMTC	31	35	66	9.4%
RMSC	33	4	37	5.2%
RNDC	169	0	169	24.1%
AMKC	21	92	113	16.1%

<sup>1</sup> One young adult was being treated at EHPW at the time this report was compiled

Young Adult Housing Monthly Progress Report  
October 2018

Facility	# YAs in YA-only Housing Areas	# YAs in Co-mingled Housing Areas	# Total	% of total YA population
BKDC	0	69	69	9.8%
MDC	0	38	38	5.4%
NIC	0	18	18	2.5%
VCBC	0	39	39	5.5%

Facility	# YAs in YA-only Housing Areas	# YAs in Co-mingled Housing Areas	# Total	% of total YA population
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- [May 2019](#)
- [April 2019](#)
- [March 2019](#)
- [February 2019](#)
- [January 2019](#)
- [December 2018](#)
- [November 2018](#)
- [October 2018](#)
- [September 2018](#)
- [August 2018](#)

This has apparently been the practice throughout all YA reporting for years. I have a hunch the July 2019 data was released only in graphic form and without specific data/numbers for a reason...

*We cannot allow these “data mistakes”/manipulations to continue into further reporting for the City Council. If the department is not allowed to use solitary in the future will there be increased unit-wide lock-ins? What about people who are placed in solitary for 00:03:59? What about people placed in solitary for 00:03:50, removed for five minutes, and then placed again in solitary for a period of time less than 00:04:00? I guarantee you the DOC will find ways to flout this legislation as they have in the past (ref “co-mingling as outlined above) and I encourage the Council to think broadly about further/other categories of reporting that it may wish to include in the reporting requirements for Intro No. 2173.*

### **B. Lessons Learned: Local Law 21:**

In December of 2018 the City Council approved intro 933b, which was codified into law as Local Law 21 in May of 2019, which required the NYC DOC to report data on sexual violence to the City Council.<sup>2</sup> Still over two years later the DOC has not adequately complied with the law and the Council and the bill's sponsoring committee members have remained mute my attempts to force compliance. We literally don't know how many complaints of sexual abuse; rape and harassment there even were in 2018 and 2019. We know how many were investigated and closed within 90 days of the complaints but we still have no idea how many other complaints had not been closed within 90 days of complaints. There are other serious flaws with DOC responses to the mandates of Local Law 21 that should be taken up in a separate hearing and re-legislated to ensure accuracy in reporting in the future but I bring this up to use as an example of how the Council's previous legislative efforts to reign in this unruly agency have continuously been flouted by the DOC. You must be specific and include reporting formats in Int. No. 2173.

### **3. Suggested Reporting Requirements for Int. No 2173:**

**Section C** “Reporting: of Int. No 2173 reads:

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<sup>2</sup> <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3509899&GUID=6F40B965-79E9-4019-A0DE-1B1FB6F0DAC2>

“c. Reporting on solitary confinement. For each instance an incarcerated person is placed in solitary confinement, the department shall prepare an incident report that includes a detailed description of why isolation was necessary to de-escalate immediate conflict and the length of time the incarcerated individual was placed in solitary confinement. Within 15 days of the end of each quarter of the fiscal year, the department shall provide the council and the board of correction all such reports and post all such reports on the department’s website with any identifying information redacted.”

In addition to my above comments about broadening the reporting requirements in other temporal ways etc., I propose the Council also provide a mandatory template to the DOC for this reporting requirement that looks something like this:

	# TNGBI People in the Bing	Average Days in
Asian	9	28 days
Black	370	28 days
Other <sup>3</sup>	153	26 days
Unknown	1	9 days
White	83	33 days
< 18	24	23 days
18 - 21 yrs.	86	36 days
> 21	506	27 days
Total	616	28 days
	# Men/Boys in the Bing	Average Days in
Asian	9	28 days
Black	370	28 days
Other <sup>4</sup>	153	26 days

<sup>3</sup> The NYCDOC did not provide information about Latinx women, girls, trans, intersex or gender non-conforming persons in solitary or solitary-like confinement on Rosie’s.

<sup>4</sup> The NYCDOC did not provide information about Latinx women, girls, trans, intersex or gender non-conforming persons in solitary or solitary-like confinement on Rosie’s.

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Total	616	28 days

Kelly Grace Price

Founder, <http://www.CloseRosies.org>

Ft. George, Manhattan

December 11, 2020

# CENTER FOR LAW AND SOCIAL JUSTICE

at MEDGAR EVERS COLLEGE, CUNY • Brooklyn, New York



1150 Carroll Street  
Brooklyn NY 11225

718 804 8893  
[www.clsj.org](http://www.clsj.org)

## TESTIMONY OF

### **THE CENTER FOR LAW AND SOCIAL JUSTICE at Medgar Evers College, CUNY**

before

**New York City Council  
Committee on Governmental Operations**

**Ranked Choice Voting (RCV) Implementation in New York City**

**Center for Law and Social Justice**

Medgar Evers College of the  
City University of New York  
1150 Carroll Street, Brooklyn, New York 11225

By: Lurie Daniel Favors, Esq.  
Interim Executive Director  
December 10, 2020

Greetings. My name is Lurie Daniel Favors and I am the Interim Executive Director for the Center for Law and Social Justice. The Center for Law and Social Justice (CLSJ) is a unit in the School of Professional and Community Development at Medgar Evers College of the City University of New York. Founded in 1985 by means of a New York State legislative grant, the mission is to address racial justice issues by providing quality legal advocacy, conducting community education campaigns, facilitating research and building organizing capacity on behalf of New Yorkers of African descent and the disenfranchised. CLSJ seeks to accomplish its mission by conducting research, and initiating advocacy projects and litigation on behalf of community organizations and groups that promote human, national, and international understanding. Because of its unique combination of research, public policy advocacy and litigation from a community-based perspective, CLSJ is a focal point for progressive activity.

From its initial days, CLSJ has consistently worked to defend the voting rights New Yorkers of African descent and other racial “minority” New Yorkers. Throughout the course of CLSJ’s history, we led or co-led the following historic voting rights advocacy initiatives or litigation in New York City:

- **New Majority for Charter Change** 1987-1989 - CLSJ led this successful coalition of activists and organizations of color that successfully advocated for major voting rights provisions and other equitable initiatives to be included in the new NYC Charter.
- ***Ashe v. Board of Elections (1988)***- successful VRA challenge to force the NYC Board of Elections to conduct functional and voter-friendly elections in Black and Latino communities.
- **New York City Districting Commission (1990-91)** Esmeralda Simmons served as the Vice Chair of this initial appointed public body.
- **Majority Coalition for Fair Redistricting (1991-92)** Voting rights activists of color coalition to ensure fair redistricting for people of color in NYC.

- ***Chin v. Bd. of Elections (1992)*** -- Argued an appeal that sought to expand Asian language voting rights.
- **New York Voting Rights Consortium**- Founding institution of this coalition of leading local and national voting rights organizations advocating for the protection of voters of color in the New York metropolitan area
- **NYC Black Leadership Advisory Coalition (1998-2000)** New York Pan-African community education and advocacy campaign on the 2000 Census.
- ***Rodriguez v. Pataki (2001-02)*** VRA challenge to NYS Congressional and Senate redistricting that forced the state government to redistrict, as required by law. CLSJ also unsuccessfully sought to create another "minority" congressional seat in the Bronx and to create a fair NYS Senate plan.
- **NYC Council Redistricting (2001)** Successfully advocated for the creation of a redistricting plan that protected Black voters in NYC.
- ***Hayden v. Pataki (2006)*** VRA and constitutional challenge to NYS' voter disenfranchisement laws against people with felony convictions.
- ***Favors v. Cuomo (2014)*** After failing to adopt a plan to reapportion Congressional districts in time, a three judge panel created its own plan, incorporating significant maps and proposals recommended by CLSJ and the New York Voting Rights Consortium Unity Maps project.
- **NYC Black Leadership Advisory Coalition (2008-2010)** New York Pan-African community education and advocacy campaign on the 2010 Census.
- **NY Voting Rights Consortium Unity Maps Project (2010-2012)**
- **NYC Black Leadership Advisory Coalition (2017-2020)** New York Pan-African community education and advocacy campaign on the 2020 Census.

CLSJ's support for ranked choice voting (hereafter "RCV") is a matter of principle and consistency. While it may be less advantageous for incumbents and candidates, the history and data suggest that systems like RCV are more beneficial to the voters, particularly voters of African descent, voters of color and other traditionally electorally disenfranchised groups. It is a voting system that better centers the needs of these voters; which is particularly important because these are the very same voters whose electoral issues are frequently discounted or paid only minimal attention.

During the early years of the Bloomberg administration, CLSJ both testified on behalf of and submitted a letter to the Department of Justice in an effort to preserve a voting system that was similar to ranked choice voting, that was then used during community school board elections. Those elections were shown to be some of the most effective ways for representatives from traditionally disenfranchised communities to gain a foothold into the electoral process.

More parents participated in the school board elections than they did in their local parent teacher associations, in part, because there were vigorous campaigns run in schools where candidates had to present their case and clearly articulate what they were going to do for parents and students in every part of the school population – even those segments that were traditionally ignored in other races. It was highly effective. Several of the first New Yorkers of African and Asian descent to be elected into public office came from the school board elections system, including notable giants like Bedford Stuyvesant’s former Assemblymember Annette Robinson.

CLSJ’s continued support for RCV today is consistent with our historical support for expanding the franchise for Black voters. For more than 30 years, CLSJ has been part of a national move to push alternate election means, including systems like RCV.

While the conversation in today’s hearing centered on the merits of RCV, the time for that conversation has long passed. This debate would have been a welcomed conversation in the lead up to the 2019 referendum. Unfortunately, many of those in opposition today did not make their concerns known in enough time for it to impact the referendum outcome. The voters have spoken. History tells us that in choosing RCV, the NYC voters selected a system that is more likely to produce better results for the voters who are in most need of reform and voter protection.

Today, instead of debating the merits of the voters' decision, the question properly before us is about how to prepare voters to engage in the electoral system that they overwhelmingly chose over a year ago.

Yes, COVID-19 is a factor that will make voter education more challenging. It does not, however, provide cover for failing to properly implement the will of the voters. During the 2020 Census campaign, CLSJ attempted to plan for every possible variable. Despite our best efforts, COVID-19 required massive adjustments in campaign strategy. As leaders, the demand is properly placed upon you, our elected officials to work in partnership with city agencies, community and faith-based organizations to lead and create solutions that implement the will of the people. While the cost of a community education campaign is a weighty consideration, it is also important to recall that with the significant increase in the expected number of electoral campaigns in 2021 city council races, the risk of multiple runoff elections is great. It is far more cost efficient to invest in a proper RCV community education program than it is to pay for one or more runoff elections.

We are now left with the question of *how* to ensure voters are properly prepared. This is why CLSJ is in full support of Int. No. 1994. Voters need a robust infusion of dollars that seek to ensure the electorate is properly educated about the nature of ranked choice voting: what it is, how it works, how winners are determined and, most importantly, how they, the voter can best engage. Indeed, since late spring 2020, CLSJ has been working with civil rights colleagues to design and implement a voter education campaign to ensure voters of African descent are prepared for the switch to rank choice voting. But we are limited in size and scope and we cannot do this work alone; we need city officials and agencies to partner with community and faith-based organizations to ensure voters are fully prepared.

If the constituents are properly educated by the electoral system apparatus, which includes entities like the Board of Elections, Campaign Finance Board, the Voter Assistance Commission, Civic Engagement Commission, other city agencies, elected officials and candidates for office, **in partnership** with community and faith based institutions, about the mechanics of ranked choice voting, voters can make informed electoral choices. Under this type of partnership, which builds on the successes of similar partnerships developed during the 2020 city-wide census campaign, we can ensure voters are ready to take full advantage of RCV. Black voters and other traditionally marginalized voters can be properly educated with outreach via their houses of worship, civic organizations, service centers, mutual aid and food distribution centers, schools and through their engagement with city agencies.

For these reasons, we call on this body pass Int. No. 1994 into law. The time for debate about the merits of RCV is long over. The time for education about this new voting system is now. This bill will help to ensure that traditionally marginalized voters can be prepared to fully engage with the 2021 election cycle.

## INTRO 2173

My name is Victor M Herrera, a member and leader of **Freedom Agenda** campaign and a directly impacted and formerly incarcerated individual who has had direct experience with Solitary confinement on Rikers Island on numerous occasions and honestly most of the periods of isolation were for concerns related to my internal advocacy while detained and preparing for my own defense, a factor the City of New York Department of Corrections has used against me at every turn of forced punitive isolation.

The Mayor has promised an end to solitary confinement! I am here to stand to hold him accountable to that promise in hopes that the committee here today will follow the proposals as set out by the Jails Action Coalition of October 2019. I have had my share of experience IN THE 80'S AND 90'S with forced punitive solitary confinement solely for the purpose of personal animus against me on charges ranging from physically resisting staff to disobeying a direct order all stemming from the Department of Corrections Staff brutal abuses and flagrant violations of their own rules, all part of a pattern and practice of demonstrating authoritarian rule over the detained! I can count the times I have spent in isolation and most unlawfully on account of verbal disputes that were the product of the abuses occurring within the ranks and file of the Correction officers.

Ending solitary and removing the discretion and authority from Corrections to use punitive isolation will promote the best approach to reducing violence and promote the safety necessary for all concerned, staff and detainees alike. Removing exceptions that presently exist in the Board of Corrections Minimum Standards that permit Corrections to enforce indiscriminately a policy that would severely impact on the health of the detainees is necessary. It is not a day that goes by that my own segregation during my pre-trial detention and the 4 harsh years of solitary confinement in the State System does not affect me today. At times even during Lockdowns Correction officers and Facility personnel would extend the period of lockdown just for the benefit of not having to deal with the detained being out of cells, this clearly coming from all the occasions where the lockdown could be cleared but extended solely for their convenience not taking into account the emotional impact on those individuals unnecessarily locked into their cells.

Punitive segregation and solitary confinement have serious mental health impact that myself today is part of my own Post Traumatic Stress Disorder. I strongly believe banning solitary confinement totally and officially removing it from any form of use in NYC Jails is necessary. The Council must place strict limitations on NYC Jail Staff using any form of separation beyond what is necessary toward treating the core concerns of the detained individuals, especially today in which many of the detained are unable to have visits due to COVID-19 pandemic and depend on access to available means of communication to keep family connections. Restrictive housing unnecessarily targets individuals indiscriminately, and I am adamant that it's use needs to be monitored with strict oversight. The Department's total discretion to use it needs to be ended, and clinical providers must monitor the use of any form of segregation.

The counsel for the Department of Corrections statement that a fair process exists is not true or supported by the facts. The disciplinary process is better known as an internal Kangaroo Court controlled and administered by the hearing officer and the Department of Corrections which more often is abused and unfairly administered. To make it fair would be to pass the intro and allow for oversight even for the sort of disciplinary procedures in place that are overly burdensome and unfair, a tiered system set against the truth and procedurally manipulated. The Department may see due process as burdensome, but the Council must do what's right and ensure justice. Thank you.

Victor M Herrera

## **Testimony of Dr. Frances Geteles, PhD., Clinical Psychologist**

Presented before the New York City Council  
Committee on Criminal Justice

Regarding Banning Solitary Confinement in New York City Jails  
Int 2173-2020

December 11, 2020

My name is Frances Geteles and I am a Clinical Psychologist, licensed in New York State. Since 1993, I have been a member of the Asylum Network of Physicians for Human Rights (PHR) providing psychological assessments for survivors of persecution and torture. That work led me to also become a member of the Campaign for Alternatives to Isolated Confinement (CAIC). As a member of CAIC, I have been working with colleagues to reform the way solitary confinement is used in the prisons and jails throughout New York State. These two areas of work are closely related since, as you might know, The UN, in its Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), has declared prolonged solitary confinement to be a form of torture.

I wish to begin by thanking Council Member Drumm and co-sponsors of the proposed legislation for their understanding of the urgency of the matter and their efforts to end this torturous practice. I also wish to thank the Criminal Justice Committee for working towards the legislation's passage.

The urgency of the matter is best understood when we review what history, experience and research have shown to be the effects of long-term isolation on individuals' emotions, behavior and cognition (thinking). These effects are traumatic and often lead to severe and irreversible psychological harm. Reported symptoms have included: 1) **Anxiety**: Persistent feelings of stress, irritability or anxiousness, fear of impending death, fear of suffocation, panic attacks; 2) **Depression**: Emotional flatness and the loss of ability to have any "feelings", mood swings, social withdrawal, apathy, lethargy, hopelessness; appetite and sleep disturbances; feelings of powerlessness; acts

of self-harm; and, suicidal ideation and behavior; 3) **Anger**: Heightened anger, irritability, aggression and rage, loss of impulse control, outbursts of physical and verbal violence against others and self; 4) **Cognitive disturbances**: Short attention span, poor concentration and memory, confusion, inability to think clearly, disorientation, bouts of amnesia; 5) **Perceptual distortions**: Hypersensitivity to noises and smells, distortions of sensation (e.g. walls closing in), disorientation in time and space, feelings of “unreality”, hallucinations affecting all five senses (e.g. hallucinations of objects or people appearing in the cell, or hearing voices when no one is speaking), and psychotic episodes; and 6) **Damage to the Brain**: Fewer brain cells and connections between cells, altered size and/or shape in the hippocampus, the amygdala and the cerebral cortex, sections of the brain that deal with memory, spatial orientation, cognition, learning ability, decision-making, stress, mood, regulation of one’s emotions and impulse control, disruption of brain chemistry and its ability to maintain equilibrium. The severe damage just described can occur in individuals who did not have serious mental health issues before placement in solitary as well as in those who are already mentally ill.

One critical point in the information above, which I wish to emphasize is that one effect of isolation is an increase in the anger that individuals feel. This is important because it is often claimed that solitary confinement is needed as a way of increasing safety in the jails. And yet, how can increasing people’s anger and irritability be thought to make everyone safe. The data contradicts that claim

Also, I am asking you to please keep in mind that **the critical source of the damages** mentioned above, are the result of **isolation**, which creates extreme boredom and loneliness by depriving people of social interaction and adequate sensory stimulation.

Thus, when we speak about ending solitary confinement, we are really talking about ending all forms of extreme isolation, whatever name it is given (solitary confinement, punitive segregation, restrictive housing, the “box,” etc.) or even if it has no name but is part of an established structure. It is only by “fully” ending all these

practices that we will stop the suffering, save lives, and increase safety for people who are incarcerated, for staff, and for the communities to which incarcerated people will ultimately return.

Therefore, I am asking you to please be sure that you do this right – that you not pass a bill that has too many loopholes, so that the law can be circumvented. If the bill passes as it is currently written, that is what is most likely to happen. In which case you will have accomplished little or nothing. You will not have ended Solitary (or Isolated) Confinement. I know that you wish for a better outcome, so to accomplish this better outcome I ask you to review and utilize the improved wording provided by JAC (Jails Action Coalition) and CAIC.



## Testimony of the Jails Action Coalition & #HALTsolitary Campaign

Presented before the New York City Council  
Committee on Criminal Justice

Regarding Banning Solitary Confinement in New York City Jails  
Int 2173-2020

December 11, 2020

Thank you very much to the Committee on Criminal Justice for holding this important hearing and to Council Member Dromm for being a longstanding champion in the City Council for ending solitary confinement. This testimony is presented by the Jails Action Coalition and the #HALTsolitary Campaign.

The New York City Jails Action Coalition (JAC) is a coalition of activists that includes formerly incarcerated and currently incarcerated people, family members and other community members who are working to promote human rights, dignity and safety for people in New York City jails. Since its formation in 2011, JAC has been at the forefront of the struggle to end solitary confinement in New York City jails.

The #HALTsolitary Campaign is a New York statewide coalition led by people who have survived solitary, family members who have or who have lost loved ones to solitary, and other leaders in the human rights, advocacy, health, and faith communities. Comprised of more than 200 organizational supporters, the #HALTsolitary Campaign aims to end the torture of solitary for all people and create more humane and effective alternatives. The #HALTsolitary Campaign also aims to build on these changes – and their pursuit – to dismantle the racial injustices and punishment paradigm that underpin the entire incarceration system.

### **Solitary Confinement is Torture and the City Council Must Must Go Further to Finally and Fully End Solitary Confinement in All Its Forms**

#### *Introduction*

**Solitary confinement is torture.** It causes immense suffering. It's disproportionately inflicted on Black & Latinx people, and transgender and gender non-conforming people.

**NYC must fully end solitary confinement in all its forms** to stop suffering, save lives, and increase safety for people incarcerated, staff, and outside communities.

**To effectively end solitary, there should be no carve outs in any City Council bill. Every incarcerated person must have a minimum of 14 hours of out-of-cell time per day**, in line with the current minimum standards for people in jails generally. When out of cell, every incarcerated person must have meaningful human engagement and congregate programming without restraints. Addressing the root causes of harmful behaviors requires engagement, not isolation. Limiting people’s out-of-cell time does *not* address safety or violence concerns, but it can cause devastating harm. For any separation from the general jail population, there must be specific, uniform processes and procedural safeguards, including true and meaningful access to counsel.

This is an historic moment: an opportunity to finally & fully end solitary. **The City Council must do this right: fully end solitary in all its forms in a real and meaningful way.**

*Solitary is Torture that Causes Devastating Harm and Death*

**Solitary Confinement is torture.** It causes immense suffering and devastating mental, physical, and emotional harm. Black and Latinx people are disproportionately locked in solitary, as are transgender and gender non-conforming people.

Layleen Polanco died in solitary confinement on Rikers Island in 2019. Kalief Browder died because of solitary confinement in 2015. Bradley Ballard, Jason Echeverria, and Carina Montes all died in solitary confinement in New York City jails. Not one more person should be tortured or die because of solitary.

The proportion of people in the city jails sent to solitary confinement has [\*increased\*](#) in recent years, plus there are a variety of forms of “restrictive housing” in the city jails that amount to solitary by another name.

*The City Council Must Go Further to Fully End Solitary Confinement in All its Forms*

**New York City must finally and fully end solitary confinement in all its forms in a real and meaningful way.** Doing so will stop suffering, save lives, and increase safety for people incarcerated, staff, and outside communities.

Program- and engagement-based supports are more effective at addressing violence than isolation and deprivation. Some key examples that demonstrate this more effective approach include: the CAPS program in NYC jails, former Merle Cooper program in NY State prisons, and RSVP program in San Francisco jails.

This is an historic moment – a real opportunity to finally and fully end solitary. While we appreciate the City Council’s intention to end solitary confinement, **the Council must do it right**, and this bill falls short of that goal. Amongst other changes, our key recommendations include the following. More detailed recommendations can be seen in the attached exhibits, namely Exhibit 1: A Summary List of Suggestions and Exhibit 2: Proposed Red Line Edits.

1. Ensure all people have access to at least 14 hours out of cell per day

The existing minimum standards governing the Department of Correction require that **people have at least 14 hours out of cell per day. There should be no carve outs:** this standard must apply to all people in the city jails.

The City should not create classes of people who are subject to more limits on out-of-cell time. Limiting people's out-of-cell time does *not* address safety or violence concerns, but it can cause devastating harm. We need an approach that is actually about addressing safety and protecting the health and well-being of people who are incarcerated.

Even if the Department actually gave 10 hours of out of cell time, that means at least 14 hours locked in your cell per day, including six hours during the day time. We also know that past practice shows that a 10 hour requirement does not actually mean 10 hours, as DOC counts hours for things like showers or the possibility of a medical appointment even if someone doesn't have one. Allowing people to spend any time, let alone languish for up to four months, in these isolating conditions can cause severe harm.

At the time she died, Layleen Polanco was in a unit that was supposed to be an alternative to solitary with at least seven hours out-of-cell per day, but she was locked in most of the day. She was only in her solitary-by-another-name unit for nine days, and at the time she died she had only been locked in her cell for two hours.

2. Strengthen the language regarding time limits, placement criteria, conditions, and protections

There must be very clearly defined time limits, placement criteria, conditions, and protections for all forms of isolation and any housing separate from, or more limited in any way than, the general jail population. Specifically:

- a. The definitions of solitary confinement, restrictive housing, and emergency lock-in must reflect conditions people face so that DOC does not continue to place people in solitary by another name or other very restrictive conditions without protections.
- b. There must be very narrowly defined criteria for what conduct can result in placement into isolation, restrictive housing, and emergency lock-in
- c. Young adults should never be placed in any form of restrictive housing – not enhanced supervision housing, not Secure Unit, not separation status housing.
- d. There must be stronger due process protections for placement in any of these types of units, including making access to counsel real, providing timely notice and an opportunity to be heard, and videotaping any purported refusals to appear at a hearing, with **dismissal of charges if these requirements are not followed.**

### ***Widespread Support Among Political Leaders for Fully Ending Solitary Confinement***

For the last year, the City Council Speaker, Public Advocate, Comptroller and several Council Members have publicly advocated for the [Blueprint to End Solitary](#), including specific provisions like the requirement that the minimum standard of out-of-cell time of 14 hours should apply to all people in city jails.

For example, [Speaker Johnson](#) stated in his December 2019 testimony before the Board of Correction: “Change the cap on solitary confinement from 15 days to 0, no exceptions. Mandate truly therapeutic and treatment-based units that give people at least 14 hours out of their cells, with at least 7 hours of congregate programming.”

[Public Advocate Williams & Chair Powers](#) stated in their September 2020 letter: “We believe that the standard practice for housing units should be 14 hours of meaningful out-of-cell-time. This move would include ending existing exceptions to the Board’s minimum standards for Enhanced Supervision Housing (ESH) units.”

[Council Member Rivera](#) stated in her December 2019 testimony before the Board of Correction: “I strongly urge the Board of Correction to adopt the HALT Solitary campaign’s blueprint to end the practice.”

[Council Member Reynoso](#) stated in his December 2019 testimony before the Board of Correction: “To address these issues, I’m endorsing the coalition’s recommendation that minimum standards be applied to all detainees across the board. This includes 14 hours of out-of-cell time for every detainee in City jails and removing any exceptions to standards for punitive segregation, enhanced supervision housing, and other forms of restrictive housing.”

### ***Conclusion***

We urge the City Council to add all these strengthening provisions, including the 14 hour minimum out-of-cell time and the strengthened definitions, criteria, due process protections, and more, to make this bill one that will actually end solitary in all its forms in a real and meaningful way. Now is the moment to finally and fully end solitary confinement in New York City.

## EXHIBIT 1

### Summary List of Suggestions for Newly Introduced Bill to End Solitary

**Summary:** 1) **14 hours out of cell time** for everyone in jails; no exception for restrictive housing; 2) **definition of solitary & restrictive housing** should be based on conditions people face; criteria for placement must be much stricter; 3) get rid of **emergency lock-in** or have four hour time limit and much stricter criteria; 4) can't have **months** in housing that can be solitary; 5) must better ensure **access to counsel**; 6) need stronger **due process protections**; 7) **young adults** should never be in solitary or restrictive housing; 8) **end BOC waivers**; 9) require **training** for all DOC staff; 10) ban **restraints** or at least stronger standards for use and review.

#### **1. The Minimum Standard of 14 Hours Out of Cell Per Day Should Apply to All People**

- a. **Issue:** Rather than following the Blueprint to End Solitary, which says that all people should have 14 hours out of cell time per day, the bill creates a separate category of people (as is the case now) in restrictive housing who are only permitted 10 hours out of cell per day.
  - i. The 10 hour standard would seem to render the four hour limit on solitary meaningless, as people in these units could be locked in their cells 14 hours straight each day, including 6 hours during the day, for 4 months.
- b. **Our Recommendation:** The minimum standard of 14 hours out of cell per day should apply to everyone, and there should *not* be an exception for people in “restrictive housing”.

#### **2. The Definition of Restrictive Housing & Solitary Confinement Should be Based on the Conditions People Face, & There Should be Very Strict Criteria for Placement**

##### *Restrictive Housing*

- a. **Issue:** This definition is in many ways both too narrow and too broad. Regarding being too narrow, with this definition, DOC will find many ways to still keep people isolated without providing them with the protections that are offered for people in restrictive housing (as they do currently). With respect to it being too broad, almost any person could be deemed a threat to safety and security and thus placed in restrictive housing for almost any reason, or no reason, at all.
- b. **Recommendation:** All of the protections laid out should apply for any person who is in any form of housing that is apart from the general population or is in any way more restrictive than the general population (in terms of hours or conditions). In addition, there should be a very strict criteria for what conduct can result in someone being in any form of restrictive housing, including having just carried out a serious act of violence (define the acts)

##### *Solitary Confinement*

- a. **Issue:** the definition of “solitary confinement” is too narrow, because it defines “solitary” not by reference to the experience of the confined person (e.g., limitations on human contact, deprivations of services, time spent alone), but solely by reference to DOC’s purported justification for imposing the deprivation—as punishment. DOC imposes de facto “solitary” on people for many reasons, only one of which is as punishment for a disciplinary infraction. In addition, the actions that can result in solitary are broad and vague.
  - b. **Our recommendation:** Define both “restrictive housing” and “solitary confinement” functionally, in terms of the conditions the individual experiences in that setting – that is, any confinement separated from others that is more restrictive/isolated/less hours out of cell. There also should be a very strict criteria for when the four hours of solitary could be used, such as when a person has exhibited behavior that constitutes a serious and evident danger to themselves or others in a way that has already resulted in injury or makes injury imminent.
- 3. Emergency Lock-in Must Not Be Allowed to Be Used As A Way to Hold People In Solitary Confinement: If In This Bill At All, There Must Be A Strict Time Limit of No More than 4 Hours and Strict Criteria For When and How It Can Be Used**
- a. **Issue:** Emergency lock-in potentially shouldn’t be allowed at all / shouldn’t be in this bill, but if it is included then this definition is broad and vague, without any specific time limit, and so could allow DOC to keep people isolated, potentially indefinitely, without protection. This could be an easy way for DOC to get around all of the other protections in the bill.
  - b. **Our Recommendation:**Emergency lock-in should be eliminated from this bill as it deals with an entirely separate issue. If it remains in this bill, there should be strict criteria for what constitutes an emergency, who can impose an emergency-lock in, only after exhausting all less restrictive options (for example, separating individuals who are causing the emergency rather than locking down an entire unit), and an hourly review—signed off by a captain or higher—to continue the lock-in. CHS and BOC must be notified.
- 4. If There Continue to Be Units With Restricted Out of Cell Time and Engagement with Other People, then People Must Not Be Kept In Such Conditions for 4 Months**
- a. **Issue:** Given that the minimum standard of out of cell time does not apply to these units (and thus people could be locked down 14 hours straight each day), this is solitary by another name (in a way that it was for Layleen Polanco). And people thus can now be held in these very restrictive environments for months.
  - b. **Our recommendation:** Again the 14 hours out of cell minimum standard should apply to restrictive housing (and everywhere else). People should only be allowed to be locked in their cells for the four hours at a time for the immediate reasons laid out as solitary in the bill itself (and not more than x times per week / not days

on end). Also, opportunities for “programming” in restrictive housing should explicitly state “congregate programming”

**5. Need Stronger Notice and Other Provisions to Ensure Access to Counsel; DOC Must Not Provide Attorneys to Represent People in Prison**

- a. **Issue:** counsel provided by the Department? Conflict of interest. Must be a better way to ensure access to counsel
- b. **Our Recommendation:** At very least need notice to people’s own attorneys, including public defenders and private defense attorneys.

**6. There Must Be Stronger Due Process Provisions**

- a. **Issue:** Restrictive housing should be imposed only pursuant to meaningful due process that includes timely notification of charges, access to representation, the ability to introduce evidence, and procedural safeguards.
- b. **Our recommendation:** Need to be clear and applied uniformly. The rules should make explicit that the person in custody receives a notice of the reason for restrictive housing 2 business days prior to a disciplinary hearing and that failure to do so constitutes a due process violation warranting dismissal. It should also require that any refusals to attend disciplinary hearings be videotaped and made part of the record, and that failure to do so is a basis for dismissal of the charges.

**7. Young Adults Must Never be in Solitary Confinement or Restrictive Housing**

- a. **Issue:** Young adults should never be in solitary or restrictive housing.
- b. **Our recommendation:** Explicit prohibition of young adults from ever being in solitary or restrictive housing, and appropriate, intensive programming for all YAs and training for officers

**8. The BOC Should be Prevented from Granting Waivers to DOC to Circumvent Protections**

- a. **Issue:** BOC often gives DOC waivers of its rules, thereby allowing DOC to circumvent protections
- b. **Recommendation:** May wish to make explicit that the BOC does not have the authority to provide waivers to any of the legislation’s protections (of course BOC could issue rules that are more protective of people incarcerated, but can’t grant waivers to get around these protections). May also wish to more generally limit the BOC’s ability to provide waivers to its own rules.

**9. All DOC Staff Should be Required to Undergo Training Outlined in the Bill**

- a. **Issue:** The proposed legislation only requires training for people working in restrictive housing areas
- b. **Rec:** Make training requirements re de-escalation etc. apply to all staff.

**10. Restraints Should be Banned, or At Least There Must be Stronger Standards**

**Limiting When Restraints Can Be Used and How Restraint Use Is Reviewed**

- a. **Issue:** There's no standard and no review process.
- b. **Recommendation:** Standards for when it can be imposed and how/when it should be reviewed.

**EXHIBIT 2**

**Proposed Red Line Edits to Solitary Confinement Bill**

Int 2173-2020

Int. No.

By Council Member Dromm, the Public Advocate (Mr. Williams), Council Members Lander, Reynoso, Rivera, Levin and Rosenthal

A Local Law to amend the administrative code of the city of New York, in relation to banning solitary confinement in city jails

Be it enacted by the Council as follows:

1           Section 1. Chapter 1 of title 9 of the administrative code is amended by adding a new  
2 section 9-161 to read as follows:

3           § 9-161 Solitary confinement. a. Definitions. For the purposes of this section, the following  
4 terms have the following meanings:

5           Emergency lock-in. The term “emergency lock-in” means a department-wide emergency  
6 lock-in, a facility emergency lock-in, a housing area emergency lock-in or a partial facility  
7 emergency lock-in as defined in section 9-155.

8           Restrictive housing. The term “restrictive housing” means any housing area that separates  
9 incarcerated persons from the general jail population or that poses restrictions on programs,  
10 services, interactions with other incarcerated people, hours out of cell, or other conditions of  
11 confinement due to a heightened threat to the safety and security of staff and other incarcerated  
12 persons.

13           ~~Solitary confinement. The term “solitary confinement” means any instance in which a~~  
14 ~~person is locked in a cell in isolation as punishment for a violent offense.~~

15           b. Ban on solitary confinement. No incarcerated individual shall be locked in a cell, other  
16 than at night for count or sleep for a period that exceeds eight hours in any 24-hour period or during

1 the day for count for no more than two hours in any 24-hour period, placed in solitary confinement  
2 unless such confinement is necessary to de-escalate immediate conflict that poses a serious and  
3 evident danger to a person's safety and has resulted in injury or makes imminent injury likely. In  
4 such circumstances, in which case an incarcerated individual may be placed in such confinement  
5 for no longer than necessary to de-escalate the conflict, not to exceed four hours immediately  
6 following such conflict. During this period, department staff must meet with the person at least  
7 once an hour to attempt de-escalation, work toward their release from such confinement, and  
8 determine whether it is necessary to continue to hold the person in such confinement. While an  
9 incarcerated individual is in such confinement, medical staff must conduct meaningful rounding  
10 every 15 minutes to engage with the person in custody, evaluating and treating any immediate  
11 health needs. Mental health staff must meet with the person at least once an hour to conduct an  
12 assessment of their health and attempt de-escalation. If medical or mental health staff determine  
13 the person should be removed from such confinement for assessment or treatment purposes, the  
14 person shall be removed to the appropriate setting. No person shall be placed in such confinement  
15 for more than four hours total in any 24-hour period, nor more than 12 hours in any seven day  
16 period.

17 c. Reporting on solitary confinement. For each instance an incarcerated person is placed in  
18 solitary the type of confinement described in subdivision b of this section, the department shall  
19 prepare an incident report that includes a detailed description of why isolation was necessary to  
20 de-escalate immediate conflict and the length of time the incarcerated individual was placed in  
21 solitary such confinement. Within 15 days of the end of each quarter of the fiscal year, the  
22 department shall provide the council and the board of correction all such reports and post all such  
23 reports on the department's website with any identifying information redacted, along with data on

1 the total number of people placed in such confinement during that time period, broken down by  
2 race, age, gender identity, and mental health treatment level, as well as a breakdown of the total  
3 number of people held in such confinement for up to one hour, between one and two hours,  
4 between two and three hours, and between three and four hours.

5 d. Restrictive housing.

6 1. No incarcerated individual shall be placed in restrictive housing until a hearing on such  
7 placement is held pursuant to the rules of the board of correction, at which the person is found to  
8 have engaged, contemporaneously at the time placement is sought, in grave and dangerous  
9 behavior that resulted in injury or presents a specific, significant, and imminent threat to the safety  
10 and security of people who live and work in the facility, and placement in restrictive housing is  
11 necessary to address serious harm. Incarcerated individuals shall have the right to be represented  
12 by their legal counsel or legal advocate for such hearings, and have the right to present evidence  
13 and cross-examine witnesses which shall be provided by the department if such individual does  
14 not have their own counsel. Both the person incarcerated and their attorney of record shall be  
15 provided written notice of the reason for proposed placement in restrictive housing no later than  
16 two days prior to the restrictive housing placement hearing, during which time the person shall not  
17 be placed in restrictive housing. Such legal counsel shall be provided adequate time to prepare for  
18 such hearings, including requests for adjournments. Any refusal by an incarcerated person to attend  
19 such hearings shall be videotaped and made part of the record. A failure to provide the notice  
20 described herein or to enter into the record videotaped evidence of an alleged refusal to attend by  
21 a person in custody shall constitute a due process violation warranting dismissal.

22 2. No incarcerated individual shall be placed in restrictive housing for longer than  
23 necessary and no more than a cumulative total of four months in any 12 month period.

1           3. The placement of an incarcerated individual in restrictive housing shall be **meaningfully**  
2 reviewed every 15 days, **by a multi-disciplinary team, including program and health staff,** to  
3 determine whether the incarcerated person continues to present a **specific, significant, and**  
4 **imminent** threat to the safety and security of **people who live and work in** the facility if housed  
5 outside restrictive housing. **If a person is not discharged from restrictive housing at such a review,**  
6 **they shall receive in writing the reasons for the determination and the program, treatment, service,**  
7 **and/or corrective action required before discharge.** The incarcerated person shall be given access  
8 to the programs, treatment and services specified, and shall be discharged from restrictive housing  
9 if the person does not engage in behavior that presents a specific, significant, and imminent threat  
10 to the safety and security of the facility during the following 15 days.

11           4. Individuals placed in restrictive housing shall have comparable interaction with other  
12 individuals and **have access to comparable congregate programming and** comparable amenities to  
13 those housed outside restrictive housing, **including access to at least seven hours of out-of-cell**  
14 **congregate programming or activities.**

15           5. The department shall utilize programming that addresses the unique needs of those in  
16 restrictive housing, and staff in restrictive housing units **and throughout the jails** shall be trained  
17 in de-escalation techniques, conflict resolution, the use of force, and related topics to address the  
18 unique needs of those in restrictive housing units.

19           6. Positive incentives shall be used to encourage good behavior in restrictive housing units,  
20 and disciplinary sanctions shall be used as little as is feasible, **and only as a last resort in response**  
21 **to behavior presenting a serious and evident danger after other measures have not alleviated such**  
22 **behavior.**

1 7. Reporting on restrictive housing. For each instance an incarcerated person is placed in  
2 restrictive housing, the department shall prepare an incident report that includes a detailed  
3 description of the grave and dangerous behavior that resulted in restrictive housing and why  
4 restrictive housing was necessary to address serious harm. For each instance where confinement  
5 in restrictive housing is continued at a 15-day review of an incarcerated person's placement in  
6 restrictive housing, the department shall prepare an incident report as to why the person was not  
7 discharged, including a detailed description of why the person continued to present a specific,  
8 significant and imminent threat to the safety and security of the facility if housed outside restrictive  
9 housing and what program, treatment, service, and/or corrective action was required before  
10 discharge. Within 15 days of the end of each quarter of the fiscal year, the department shall provide  
11 the council and the board of correction all such reports and post all such reports on the department's  
12 website with any identifying information redacted, along with data on the total number of people  
13 placed in restrictive housing during that time period, broken down by race, age, gender identity,  
14 mental health treatment level, and length of time in restrictive housing, as well as data on all  
15 dispositions on all charges during that time period, broken down by charge(s), race, age, gender  
16 identity, and mental health treatment level.

17 e. Out-of-cell time.

18 1. All incarcerated individuals shall have access to at least 14 hours of time outside of their  
19 cells every day, except for incarcerated individuals placed in ~~solitary~~ confinement for de-escalation  
20 pursuant to subdivision b of this section, ~~and except that individuals placed in restrictive housing~~  
21 ~~pursuant to subdivision d of this section shall have access to at least 10 hours of time outside of~~  
22 ~~their cells.~~

1           2. No incarcerated individual shall be placed in restraints during out-of-cell time unless an  
2 individualized determination is made that restraints are necessary to prevent an immediate risk of  
3 self-injury or injury to other incarcerated persons or staff, and in such instances the least restrictive  
4 form of restraints shall be used for no longer than necessary to abate such imminent harm.  
5 Restraints shall not be used beyond the initial occasion following such determination unless a due  
6 process hearing, with all of the protections in subdivision d(1), is held to determine if restraints  
7 can continue to be used, and to what degree. Any continued use of restraints shall be reviewed  
8 daily and discontinued once there is no longer an immediate risk of injury. Restraints shall not be  
9 used for more than seven days, unless a new due process hearing, with all of the protections in  
10 subdivision d(1), is held, and a new hearing must occur at least every seven days if restraints  
11 continue to be used.

12           3. Incarcerated individuals may congregate with others and move about their housing area  
13 freely during out-of-cell time and shall have access to education and programming pursuant to  
14 section 9-110.

15           f. Emergency lock-ins. Emergency lock-ins shall only be used when the chief of department  
16 determines such lock-ins are necessary to investigate or de-escalate an emergency that poses a  
17 threat of specific, significant, and imminent harm to people incarcerated or staff. Emergency lock-  
18 ins shall only be used when there are no less restrictive means to address the emergency and only  
19 as a last resort after exhausting less restrictive measures. Emergency lock-ins shall be confined to  
20 as narrow an area as possible and to as limited number of people as possible. Emergency lock-ins  
21 shall be lifted as quickly as possible, shall be reviewed at least every hour by the chief of  
22 department, and shall never last more than four hours. Throughout an emergency lock-in, medical  
23 staff must conduct meaningful rounding every 15 minutes to engage with each person locked in,

1 evaluating and treating any immediate health needs. Mental health staff must meet with the person  
2 at least once an hour to conduct an assessment of their health and attempt de-escalation.

3 1. The department must provide immediate public information on its website concerning  
4 any emergency lock-in, including information about any restrictions on visits, phone calls, counsel  
5 visits or court appearances.

6 2. For each instance an emergency lock-in is imposed, the department shall prepare an  
7 incident report that includes a description of why the lock-in was necessary to de-escalate an  
8 emergency, including the ways in which it posed a threat of specific, significant, and imminent  
9 harm, and how other less restrictive measures were exhausted, as well as the number of people  
10 held in lock-in, the length of lock-in, the areas affected and why, any medical and mental health  
11 services affected, any counsel visits or court appearances affected, any programs affected, all  
12 activities taken during the lock-in to resolve and address the lock-in, and the number of staff  
13 diverted for the lock-in. Within 15 days of the end of each quarter of the fiscal year, the department  
14 shall provide the council and the board of correction all such reports and post all such reports on  
15 the department's website with any identifying information redacted, along with data on the total  
16 number of lock-ins, areas affected by each lock-in, length of each lock-in, and number of people  
17 locked-in, broken down by race, age, gender identity, mental health treatment level, and length of  
18 time in cell confinement.

19 g. Incarcerated people under the age of 22 shall not be placed in solitary confinement or  
20 restrictive housing of any kind, and shall receive access to trauma-informed, age-appropriate  
21 programming and services on a consistent, regular basis.

22 § 2. This local law takes effect ~~180~~ 30 days after it becomes law. The board of correction  
23 shall take any actions necessary for the implementation of this local law, including the

- 1 promulgation of rules relating to procedures and penalties necessary to effectuate this section,
- 2 before such date.

AM  
LS #2666/2936/12523/12658/12676/12913  
11/19/20

## Testimony of Melania Brown

Presented before the New York City Council  
Committee on Criminal Justice

Regarding Banning Solitary Confinement in New York City Jails  
Int 2173-2020

December 11, 2020

My name is Melania Brown. I am an activist and the sister of Layleen Polanco. Thank you to the Committee on Criminal Justice for holding this important hearing and for Council Member Dromm for continuing to push to end solitary confinement.

My baby sister passed away last year on June 7th, 2019 while being held in solitary confinement at Rikers Island.

Layleen suffered from epilepsy, a condition that should have kept her out of solitary confinement but against medical objections she was still placed there where she has never seen the doors open again.

A video was released by NBC news that proves she wasn't getting checked on regularly, what should have been every 15 minutes turned out to be every 45 minutes to an hour. In this video, you can witness how the guards reacted when she wasn't responding after they decided to go check on her. They opened the door and as my sister fought for her life they stood there a couple of feet away from her and laughed at her while she was dying.

I can only imagine the pain and humiliation my sister was feeling as she was slipping away. I will forever be haunted by the thought of her screaming out for her family or even asking for help and watching two guards that could've helped her watch her die.

Solitary confinement is inhuman and pure torture, it causes suffering, devastating mental, physical, and emotional harm. New York City must finally and fully end solitary confinement in all its forms in a real and meaningful way, in line with the [Blueprint to End Solitary Confinement](#) and the [proposed rules](#) put forward by the #HALTsolitary Campaign and Jails Action Coalition. Doing so will stop suffering, save lives, and increase safety for people and will prevent another family from facing a painful life sentence like mine. There should be other programs in place to better rehabilitate these individuals; solitary confinement causes further mental damage that lands them right back in the system.

The City Council bill being considered today must go further in order to truly end solitary. Among other changes, all people in the city jails must have access to at least 14 hours out of cell per day, with opportunities for meaningful engagement with other people and programming. That is the current general basic minimum standard for the jails, and it must apply to everyone. There should be no carve outs. There should also be no loopholes, so the bill language must be strengthened to ensure that all of the intended protections are real. Jail itself is inhumane and people shouldn't be there in the first place. My sister certainly should not have been there, and no one should. But if the city is going to hold people in jails, they should not be locked in torture chambers for hours at a time.

Layleen was in a unit that was supposedly an alternative to solitary, what they call "restrictive housing." But it was just solitary by another name. She was supposed to get seven hours out of her cell a day and even that seven hours wasn't real. For those so-called hours out of cell, DOC counts things like showers and the possibility of visits and medical appointments even if someone doesn't have them.

But even if those seven hours out of cell were real, that means at least 17 hours locked in a tomb-like cell. At the time that she died, Layleen had only been locked in her cell for around two hours. Two hours. That's all it took for my sister to be taken from us.

If you are going to claim to end solitary, then actually end solitary. People should be allowed to be out of their cells all day, every day. No carveouts. Make it real. Limiting people's out of cell time does nothing for improving safety, but it can be torturous and it can be deadly. I of course know this all too well. My sister went into that cell and never came out. How many more people have to die before you finally and fully end this torture?

My sister died over a year and a half ago. The Mayor invoked my sister's name in a promise to end solitary six months ago but still he has done nothing. The City Council Speaker and other City Council members have invoked my sister's name to call for an end to solitary confinement with a minimum of 14 hours out of cell for all people. Well, now is the time for these lawmakers to walk the walk and not just talk the talk. Now is the time to end solitary confinement, in all its forms, once and for all. This is long overdue - solitary should have been ended long ago. My sister should still be here. Do not delay any longer. End it. End it now.

**Testimony to the New York City Council  
Committee on Criminal Justice  
Friday December 11th**

My name is Natasha White, and I'm a member of Freedom Agenda. I want to first thank Council Member Dromm, Council Member Powers, and the sponsors of this bill for stepping in to make sure New York City actually ends solitary confinement -also known as segregated housing months after the Mayor's promise. Since last winter, and before,, people have been joining Board of Corrections meetings to tell them about their experiences in solitary confinement. The Board said they are committed to ending solitary, but New York City is still subjecting people to that torture. It is beyond time that this Board vote to end solitary confinement and implement the Blueprint developed by the Jails Action Coalition and CAIC.

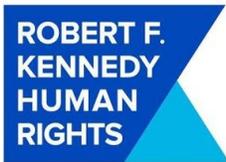
Today I want to remind you that solitary confinement is torture and has long term mental affects. I am not only a survivor of solitary but also a woman who had to deal with what solitary confinement can do to our loved ones. Jails and prisons justify solitary confinement by saying it's supposed to teach you something. It is used as punishment for breaking the rules of prison - or for getting on an officer's bad side. However when a person goes into solitary, remember they are handcuffed and transported with nothing. No books, paper, pen or anything else for that matter. They are likely in a cell with no windows and no sunlight. The door has no windows so you can not see anyone that is passing. No outside interactions. No phone calls. Basically you've put a person in a metal box. Every hour and every day in that box you hear the same sounds, and smell the same smells. There is nothing corrective or rehabilitating about that kind of isolation.

The effects of solitary confinement also reach outside the prison walls. In December of 2018 my husband was released after serving 26 years in prison, 12 years of which he served in solitary confinement. The only thing solitary taught my husband was how to live alone in isolation, and it did long term damage. For a man who has read more than 2000 books, minor things as simple as a delayed train makes him furious. For the first year I had no idea of the real effects it had on him, but one day, during an argument between us, he snapped, breaking everything he got his hands on in our apartment, including my heart. Because of the severity of this incident, I relocated, having to leave everything behind. A little over a year later I'm still putting the pieces together. My husband's time in solitary did nothing to rehabilitate him -- it actually made it harder for him to deal with other people. What good does that do anyone?

I have seen people go into solitary confinement for even short periods of time and come out different and not for the better. All people have basic needs - including human interaction. It is not anyone's right to deny any person of them because they are in prison. DOC is supposed to be doing something like rehabilitating, right? How does that work when you are in a cell alone with no one to talk to? It's impossible and it's torture!

Now is the time to fully end solitary confinement. Not to cut it back and leave small traces or a few hours of it, but to once and for all do away with the idea that isolating someone does anything to address the causes of their behavior. If the Department of Correction doesn't know *how* to address the root causes of violent behavior, that means we need new people to manage the jails. It doesn't mean we need to keep torturing people and thinking they'll get better. If we want safer jails and safer communities, solitary cannot be part of that.

Sent from my iPhone



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HEAL PAIN. JOIN US. [RFKHumanRights.org](https://www.rfkhumanrights.org)**

New York City Council  
Committee on Criminal Justice  
Re: Ending Solitary Confinement in New York City Jails  
December 11, 2020  
Written Testimony of Robert F. Kennedy Human Rights  
By Monica Smith and Sarah Decker

**All persons deprived of their liberty shall be treated with humanity and with respect  
for the inherent dignity of the human person.**

— *International Covenant on Civil and Political Rights*<sup>1</sup>

Dear Chair Powers and Members of the Committee on Criminal Justice,

Robert F. Kennedy Human Rights submits this testimony to the New York City Council Committee on Criminal Justice to demand a complete end to solitary confinement in New York City jails. Robert F. Kennedy Human Rights is an international human rights organization dedicated to realizing Robert Kennedy's vision of a more just and peaceful world, inclusive of advocating for an end to the United States' over reliance on incarceration and the elimination of unjust pretrial detention policies that disproportionately affect the poor and communities of color. Our domestic Criminal Justice Reform team seeks to ensure that the United States respects, protects, and fulfills its international human rights obligations with respect to its criminal justice system. As this Committee hears this proposed legislation on solitary confinement, we submit this testimony in solidarity with survivors of solitary and their families, community activists, faith leaders, and elected officials. We urge you to completely abolish punitive segregation (PSEG) and prolonged solitary confinement in New York City jails by adopting the Blueprint put forward by the NYC Jails Action Coalition and the #HALTsolitary Campaign.

The United States, including the city of New York, stands out among its Western and industrialized peers for its use of extended solitary confinement in prisons and jails.<sup>2</sup> As New York City's legislative body, the Council must take immediate steps to address the

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<sup>1</sup> International Covenant on Civil and Political Rights art. 10(1), Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter ICCPR].

<sup>2</sup> Juan E. Méndez (U.N. Special Rapporteur on Torture), *Seeing into Solitary: A Review of the Laws and Policies of Certain Nations Regarding Solitary Confinement of Detainees* (September 2016), [https://www.weil.com/~media/files/pdfs/2016/un\\_special\\_report\\_solitary\\_confinement.pdf](https://www.weil.com/~media/files/pdfs/2016/un_special_report_solitary_confinement.pdf)

human rights violations inherent in holding tens of thousands of people in extremely harsh, isolating conditions that have consistently proven to cause egregious, long-lasting harm to our communities. Punitive and prolonged solitary confinement are cruel, ineffective practices that harm the immediate and long-term wellbeing of incarcerated individuals, corrections staff, and communities, at great cost to New York City.<sup>3</sup> A new study indicates that implementing the HALT Act can save New York State and local governments an estimated \$132 million dollars annually, or \$1.3 billion dollars over 10 years.<sup>4</sup> These fiscal savings are yet another reason for this Committee to end the use of solitary confinement, particularly as New York faces a multi-billion dollar budget shortfall. Importantly, the savings in human lives and human potential far outweigh the financial benefits of elimination of the use of solitary confinement. Regardless of potential fiscal savings, solitary confinement is a form of torture and must be completely abolished.

In most circumstances, solitary confinement constitutes cruel, inhuman, or degrading treatment, and rises to the level of torture, in violation of international human rights law and the tenets of basic human dignity. The immense suffering and devastating mental, physical, and emotional harm caused by solitary confinement disproportionately impacts Black and Latinx people and those who are transgender and gender non-conforming. The lives lost to solitary confinement in New York City are staggering and most recently include Layleen Polanco, Bradley Ballard, Jason Echeverria, and Carina Montes. The absolute prohibition on torture and “cruel, inhuman, or degrading treatment or punishment” (CIDT) is enshrined in a number of regional and international human rights treaties.<sup>5</sup> Under international law, torture is defined as the intentional infliction of severe physical or mental pain or suffering upon a person by a public official for the purpose of, among other things, punishment or intimidation.<sup>6</sup> Importantly, an act that falls short of

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<sup>3</sup> Housing an individual in solitary confinement costs an estimated two to three times more than housing them in the general population. See American Civil Liberties Union [ACLU], *Paying the Price for Solitary Confinement* (2015), <https://www.prisonlegalnews.org/media/publications/Paying%20the%20Price%20for%20Solitary%20Confinement.%20ACLU%20Factsheet,%202015.pdf>.

<sup>4</sup> Partnership for the Public Good, *Save Money, Save Lives: An Analysis of the Fiscal Impact of the HALT Solitary Confinement Act* (November 2020), [https://ppgbuffalo.org/files/documents/criminal-justice/incarceration/save\\_money\\_save\\_lives.pdf](https://ppgbuffalo.org/files/documents/criminal-justice/incarceration/save_money_save_lives.pdf)

<sup>5</sup> ICCPR art. 7; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment arts. 1, 16, Dec. 16, 1984, 1465 U.N.T.S. 85 [hereinafter CAT]. The prohibition is non-derogable “even in situations of public emergency” and “no justification or extenuating circumstances may be invoked to excuse [its] violation.” ICCPR art. 4(2); Human Rights Comm., 44th Sess., General Comment No. 20: Article 7 (Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment), ¶ 3, <http://www.unhcr.ch/tbs/doc.nsf/%28Symbol%29/6924291970754969c12563ed004c8ae5?Opendocument>.

<sup>6</sup> CAT art. 1; Manfred Nowak (Special Rapporteur on the Question of Torture), Civil and Political Rights Including the Questions of Torture and Detention, ¶ 35, U.N. Doc. E/CN.4/2006/6 (Dec. 23, 2005).

torture may be still amount to CIDT and therefore also result in a violation of human rights law.<sup>7</sup>

The devastating, often long-lasting harm caused by physical and social isolation is well-documented and goes beyond any pain or suffering “inherent in or incidental to” incarceration.<sup>8</sup> Specifically, the severe mental pain or suffering caused by solitary confinement amounts to torture or cruel, inhuman or degrading treatment when used:

- as a punishment;
- indefinitely or for a prolonged period; or
- for persons with mental disabilities or juveniles.<sup>9</sup>

While an improvement over current practice, the proposed bill fails to eliminate solitary confinement in all of these circumstances and would result in ongoing human rights violations if implemented in its current form.

According to the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, “[s]olitary confinement, when used for the purpose of punishment, cannot be justified for any reason, precisely because it imposes severe mental pain and suffering beyond any reasonable retribution for criminal behaviour.”<sup>10</sup> Other international human rights bodies such as the U.N. Human Rights Committee have expressed concern with disciplinary or administrative housing conditions that rely on isolation and “strict regimentation in a depersonalized environment” and have warned that such treatment is incompatible with the “reformation and social rehabilitation” that should be the goals of any correctional facility.<sup>11</sup> In line with this principle, the Blueprint for Ending Solitary Confinement in NYC Jails proposed by NYC Jails Action Coalition and the #HALTsolitary Campaign (Blueprint), calls for the

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<sup>7</sup> Manfred Nowak (Special Rapporteur on the Question of Torture), Civil and Political Rights Including the Questions of Torture and Detention, ¶ 35, U.N. Doc. E/CN.4/2006/6 (Dec. 23, 2005).

<sup>8</sup> CAT art. 1.

<sup>9</sup> U.N.G.A., 66th Sess., Interim Report of the Special Rapporteur of the Human Rights Council on Torture and Other Cruel, Inhuman or Degrading Punishment, ¶¶ 72, 76–78, 81, 84, 86, 88, U.N. Doc. A/66/268 (Aug. 5, 2011), <https://undocs.org/A/66/268>; G.A. Res. 70/175: United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), Rules 43, 45(2), U.N. Doc. A/RES/70/175, (Jan. 8, 2016), <https://undocs.org/A/RES/70/175>. See also, Human Rights Comm., 44th Sess., General Comment No. 20: Article 7 (Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment), ¶ 6, <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/6924291970754969c12563ed004c8ae5?Opendocument>.

<sup>10</sup> U.N.G.A., 66th Sess., Interim Report of the Special Rapporteur of the Human Rights Council on Torture and Other Cruel, Inhuman or Degrading Punishment, ¶ 81, U.N. Doc. A/66/268 (Aug. 5, 2011), <https://undocs.org/A/66/268>.

<sup>11</sup> Human Rights Comm., 87th Sess., Concluding Observations of the Human Rights Committee: United States of America, ¶ 32, U.N. Doc. CCPR/C/USA/CO/3/Rev. 1 (Dec. 18, 2006), <http://www1.umn.edu/humanrts/usdocs/hruscomments2.html>.

elimination of all forms of punitive segregation in New York City jails and strictly limits the use of any other form of segregation, such as Enhanced Supervision Housing (ESH).<sup>12</sup>

Additionally, the U.N. Standard Minimum Rules for the Treatment of Prisoners, also known as the Mandela Rules, explicitly prohibit indefinite and prolonged solitary confinement - defining prolonged solitary confinement as anything longer than 15 days.<sup>13</sup> While the U.N. Special Rapporteur noted that there is an “arbitrary nature” in “establish[ing] a moment in time which an already harmful regime becomes prolonged and therefore unacceptably painful,” he too concluded that 15 days should mark the threshold when solitary confinement rises to the level of CIDT or torture “because at that point, according to the literature surveyed, some of the harmful psychological effects of isolation can become irreversible.”<sup>14</sup> The Blueprint fully adheres to this universally accepted standard but carve-outs and exceptions in the proposed bill, including a provision that creates a category of people in restrictive housing who are only permitted 10 hours of out of cell time per day, remain out of step with international law and in violation of basic human rights. This 10 hour standard would render the four hour limit on solitary meaningless because people in these units could be locked in their cells 14 hours straight each day for four months, in violation of the Mandela Rules. The minimum standard of 14 hours out of cell per day should apply to everyone and out of cell time must include meaningful human engagement and congregate programming without the use of restraints.

When considering the elimination of punitive segregation and prolonged solitary confinement, the Committee should give particular attention to the fact that 75% of people detained in New York City’s jails are awaiting trial.<sup>15</sup> There are additional harms and dangers associated with solitary confinement in the pretrial context. According to the U.N. Special Rapporteur, “[t]he practice of solitary confinement during pretrial detention

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<sup>12</sup> NYC Jails Action Coalition & #HALTsolitary Campaign, *A Blueprint for Ending Solitary Confinement in NYC Jails* (October 2019), <http://nycaic.org/wp-content/uploads/2019/10/Blueprint-for-Ending-Solitary-Confinement-in-NYC-Oct-2019.pdf>.

<sup>13</sup> G.A. Res. 70/175: United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), Rules 43–44, U.N. Doc. A/RES/70/175, (Jan. 8, 2016), <https://undocs.org/A/RES/70/175>.

<sup>14</sup> U.N.G.A., 66th Sess., Interim Report of the Special Rapporteur of the Human Rights Council on Torture and Other Cruel, Inhuman or Degrading Punishment, ¶ 26, U.N. Doc. A/66/268 (Aug. 5, 2011), <https://undocs.org/A/66/268>.

<sup>15</sup> Mayor’s Office of Criminal Justice (MOCJ), *Breaking the Frame? Rethinking the Criminal Justice System in New York City* (July 2019), [http://criminaljustice.cityofnewyork.us/wp-content/uploads/2019/11/Breaking-the-Frame\\_.pdf](http://criminaljustice.cityofnewyork.us/wp-content/uploads/2019/11/Breaking-the-Frame_.pdf).

creates a de facto situation of psychological pressure.”<sup>16</sup> This can influence individuals to plead guilty to an offense that they did not commit simply to end the suffering of solitary confinement.<sup>17</sup> It is not in the interest of justice in New York City to subject people held in pretrial detention to the harsh conditions of solitary confinement.

Further, the COVID-19 pandemic has substantially intensified the dangers of solitary confinement. Under no circumstances should solitary confinement be used as a substitute for proper medical care. According to advocates, detained individuals who have been exposed to COVID-19 and/or demonstrate symptoms have been reportedly put into solitary confinement. In June 2020, the coalition Unlock the Box published a report detailing an alarming trend by which prisons and jails have institutionalized the practice of solitary confinement as a way to stop the spread of coronavirus.<sup>18</sup> According to the report, before the pandemic, there were 60,000 people in solitary confinement in state and federal prisons. Now, there are 300,000 state and federal prisoners confined to their cells in response to COVID-19 - representing a 500% increase in solitary confinement.<sup>19</sup>

The disastrous consequences of this practice are two-fold: detained individuals are discouraged from reporting symptoms, leading to risk of further outbreaks; and sick individuals who are placed in solitary are isolated from access to medical care and supervision, leading to increased risk of death. Time and time again, we have seen individuals die in solitary due to preventable medical consequences, including Layleen Polanco, an Afro-Latinx trans woman who died after an epileptic seizure while in solitary on Rikers Island. This trend reflects the demonstrated history of prisons using solitary confinement to deal with the public health concerns of prison populations, including individuals who are suicidal or have serious mental illnesses. The alarming practice of responding to COVID-19 through an institutionalization of solitary confinement reflects a disturbing reality where states, including New York, have systematically failed to provide

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<sup>16</sup> U.N.G.A., 66th Sess., Interim Report of the Special Rapporteur of the Human Rights Council on Torture and Other Cruel, Inhuman or Degrading Punishment, ¶ 73, U.N. Doc. A/66/268 (Aug. 5, 2011), <https://undocs.org/A/66/268>.

<sup>17</sup> Lindsey Devers, CSR Incorporated, *Plea and Charge Bargaining: Research Summary*, U.S. Dep’t of Justice Bureau of Justice Assistance (Jan. 24, 2011), <https://www.bja.gov/Publications/PleaBargainingResearchSummary.pdf>.

<sup>18</sup> Unlock the Box, *Solitary Confinement Is Never the Answer* (June 2020), <https://static1.squarespace.com/static/5a9446a89d5abbfa67013da7/t/5ee7c4f1860e0d57d0ce8195/1592247570889/June2020Report.pdf>

<sup>19</sup> *Id.*

protection to incarcerated individuals.<sup>20</sup> For those caged in New York City jails, it has never been more dangerous to be in solitary confinement.

Robert F. Kennedy Human Rights commends the City Council's intention to end solitary confinement, however, the proposed bill falls short of that goal. We urge the Committee to fully end solitary in all its forms in a real and meaningful way by adopting the Blueprint. In order to eradicate our criminal justice system's reliance on this form of torture, we must be careful not to validate other forms of solitary that are simply known by another name, including a variety of forms of "restrictive housing." Therefore, we urge the Committee to add strengthening provisions to this bill that will ensure that minimum standards be applied to all detainees across the board, including the 14 hour minimum out-of-cell time, strengthened definitions, criteria, due process protections, and more. We encourage the Committee to take advantage of this historic moment as an opportunity for New York City to again take the lead on meaningful criminal justice reform.

To ensure the basic dignity and human rights of individuals in DOC custody and decrease trauma and violence in New York City jails, all punitive segregation and prolonged solitary confinement must be eliminated; ESH must be reimagined to provide actual therapeutic, restorative programming; and DOC's use of lock-ins and lockdowns must be monitored by the courts and curtailed to allow necessary programming to continue. Therefore, instead of the proposed bill, we urge this Committee to enact a *complete* end to solitary confinement in *all* its forms by adopting the Blueprint for Ending Solitary Confinement in New York City Jails and the community's proposed rules drafted by the NYC Jails Action Coalition and the #HALTsolitary campaign. Thank you for your time and consideration.

Sincerely,

Monica Smith  
Policy Attorney

Sarah Decker  
Dale and James J. Pinto Fellow

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<sup>20</sup> In this report, the ACLU and Prison Policy Initiative evaluated the actions each state has taken to save incarcerated people and facility staff from COVID-19. New York received a grade of F+. See Emily Widra and Dylan Hayre, ACLU Smart Justice and Prison Policy Initiative, *Failing Grades: States Responses to COVID-19 in Jails & Prisons* (June 25, 2020), [https://www.aclu.org/sites/default/files/field\\_document/failing\\_grades\\_states\\_responses\\_to\\_covid-19\\_in\\_jails\\_prisons\\_063020.pdf](https://www.aclu.org/sites/default/files/field_document/failing_grades_states_responses_to_covid-19_in_jails_prisons_063020.pdf).

## Testimony of Scott Paltrowitz

Presented before the New York City Council  
Committee on Criminal Justice

Regarding Banning Solitary Confinement in New York City Jails  
Int 2173-2020

December 11, 2020

### 1. Introduction: New York City Must Finally & Fully End Solitary Confinement

Thank you to the Committee on Criminal Justice for the opportunity to testify at this critical hearing and thank you Council Member Dromm for continuing your longstanding efforts to end solitary confinement in New York City. I fully support the entire testimony provided by the #HALTsolitary Campaign and the Jails Action Coalition, including all of their specific recommended line edits to the bill at issue.

The torturous and deadly practice of solitary confinement must be ended immediately, in a real and meaningful way, in line with the [Blueprint to End Solitary](#) and the [proposed rules](#) put forward by the #HALTsolitary Campaign and Jails Action Coalition. Solitary confinement should have been ended years ago, and there can be no more delay. [Layleen Polanco](#) died in solitary eighteen months ago. [Kalief Browder](#) died because of solitary confinement over five and a half years ago. [Bradley Ballard](#) died in solitary over seven years ago. [Jason Echeverria](#) died in solitary over eight years ago. [Carina Montes](#) died in solitary almost 18 years ago. Countless other New Yorkers have had their lives, their minds, and/or their bodies taken by solitary.

Let us be clear. What we are talking about today is a systematic government program of torture. A government program of torture that is predominantly inflicted on Black and Brown New Yorkers, and too often transgender and gender non-conforming people, and other members of the LGBTI community. A government program of torture that has been going on for years and decades. A government program of torture that has damaged and destroyed countless minds and bodies, that has increased violence and harm in jails and in our outside communities, and has directly caused the deaths of far too many people. Solitary confinement causes people to engage in self-mutilation. It causes heart disease. It causes anxiety, depression, psychosis. It leads people to deteriorate mentally and physically. It makes jails and outside communities *less safe*.

Solitary confinement should have ended so long ago. It must end now. And it must FULLY end, in all its forms, in a real and meaningful way.

## **2. No Carveouts, No Loopholes: End Solitary, Guarantee at Least 14 Hours Out of Cell, & Strengthen the Provisions to Make It Real**

Let us also be clear that when we are speaking about people incarcerated in New York City jails, we are speaking about human beings - again mostly Black and Brown and poor people - being forcibly removed from their families, their jobs, their neighborhoods, their communities, their loved ones. We are speaking about human beings - even apart from solitary confinement - being put in cages and boxes, subject to brutality and strip searches, and a system that attempts to strip them of their agency and their humanity.

Which is why it is so imperative that at the very least, to effectively end solitary confinement, the basic minimum standards that already apply to people generally in the city jails - who already are being denigrated and dehumanized by being placed in jail - must apply to everyone in the city jails. Those minimum standards that already exist say that people should have access to at least 14 hours out of cell per day, and so long as people are held in New York City's jails that standard should apply to all people in city jails. Indeed, to fully and effectively end solitary confinement means that this minimum standard of 14 hours, with meaningful human engagement and programs, should apply to all people. There must be no carveouts to this basic minimum standard.

There also should not be any loopholes that could provide the opportunity for the Department of Correction ("DOC") to place people in what amounts to solitary by another name. The end to solitary confinement must be real and effective. Which is why it is so imperative that there be strengthened language related to the definitions of solitary confinement, restrictive housing, and emergency lock-in to reflect the experiences of people locked in those settings, and why there must be very strict, limited, and specific criteria as to when an individual may be removed from the general jail population, along with stronger procedural protections, including a robust right to counsel and videotaping of alleged hearing refusals and the automatic dismissal of charges if these procedural protections are not followed.

## **3. The Devastating and Deadly Harm of Even Short Periods of Isolation**

There are no safety or other benefits to restricting people's out of cell time. But such restrictions can cause extreme suffering, devastating harm, and even death. Experts agree that the sensory deprivation, lack of normal interaction, and extreme idleness of solitary can lead to severe [psychological](#), [physical](#), and even [neurological](#) damage, and dramatically increase the rates of self-mutilation and suicide ([NYC jails](#) and [NYS prisons](#)). New [Cornell research](#) found that even a few days in solitary confinement - and even only one or two days of solitary - led to significantly heightened risk of death by accident, suicide, violence, and other causes. One study [published last summer](#) in the Journal of General Internal Medicine found that solitary

confinement is associated with a [31% increase in hypertension](#). Approximately one-in-three people in solitary who participated in the study were more likely to experience heart attacks, strokes, and - unsurprisingly - higher degrees of loneliness, which also [contributes](#) to heart disease. This study was followed by another one last fall which found solitary confinement is associated with [increased rates of death after release](#), particularly by suicide as well as overdose.

Ten hours out of cell per day means 14 hours, potentially straight, locked in solitary, and potentially even more consecutive time locked in solitary depending on how and when the hours are counted on back-to-back days. Fourteen hours straight of being entombed in a box without the ability to get out or get help. Plus, we know that the official number of hours isn't even the real experience of people in New York City jails - DOC counts hours for showers or the possibility of having a visit or doctor's appointment, whether or not any visit or appointment took place, or starts the clock for out of cell time when people are still sleeping or otherwise unaware of the opportunity to be out of cell. Or DOC will label something as general population while having extremely restrictive conditions.

Layleen Polanco was in a unit that was intended to be a purported alternative to solitary, where she was supposed to be having the opportunity to have at least seven hours out of cell per day. Instead, she was locked in almost the entire day. She had only spent nine days in these conditions before she died. At the time she died, she had been locked in her cell for [only two to three hours](#) before she died. Bradley Ballard, was [reportedly](#) in a unit where he was even supposed to have up to 14 hours out of cell per day, but instead was locked in his cell all day, deteriorating and decompensating more and more during the seven days he remained in those torturous conditions before he died.

#### **4. More Engagement & Programs - *Not* Isolation and Restricted Out of Cell Time - Actually Reduce Violence & Improve Safety**

By contrast to these horrific and deadly conditions, what evidence shows actually works at reducing violence and improving safety are approaches that do *not* limit out of cell time but are about the opposite of isolation, with full days out of cell and intense engagement and pro-growth programming. The CAPS program in NYC, the former Merle Cooper program in a NY prison, the RSVP program in San Francisco jails are a few examples of how engagement and programming - rather than isolation and restrictions on out of cell time - work to reduce violence and create more positive outcomes.

The [CAPS program](#) in NYC jails has shown vast improvements in safety by providing a therapeutic and rehabilitative approach rather than a punitive approach or isolation. The now closed [Merle Cooper program](#) in New York State - where people could earn even the ability to *not* be locked in even at night - was about the opposite of solitary based on empowerment and

programming, including peer led programming. The intensive engagement- and program-based RSVP program in San Francisco jails also showed dramatic reductions in [violence in jails](#) and dramatic reductions in [violence in outside communities](#) after people return home from jail. In [Colorado](#) even “corrections officers who had initially opposed [limits on solitary] changed their minds after they began to see positive results.”

## **5. Conclusion: Lawmakers Must Rise to the Historic Moment**

For the past year, community members, along with the [City Council Speaker](#), [Public Advocate](#), [Comptroller](#), [Criminal Justice Chair](#), and several [additional Council Members](#) have been calling for the enactment of the community proposed Blueprint to End Solitary, including specifically calling for all people in city jails to have access to at least 14 hours a day out of cell, with access to meaningful human engagement and programs.

The City Council has an historic opportunity. This is a moment where you as lawmakers have the opportunity to rise to the occasion, do what is right, and finally and fully end this practice that has destroyed far too many minds and taken far too many lives. Fully ending solitary confinement in all its forms in a real and meaningful way will stop immense government-inflicted suffering. Fully ending solitary will also be an important step toward dismantling the racist punishment paradigm that undergirds the entire jailing and incarceration systems, as well as an important step toward dismantling those systems as a whole. An opportunity to end solitary may not come again for a long time, and measures with carveouts or loopholes will make it even more difficult to achieve the true end to this barbaric and deadly practice. So I urge you to marshal your best selves and to do this right. End solitary now, and end it fully.

## ELIMINATE SOLITARY CONFINEMENT *IN NYC JAILS* Written Testimony of Anthony Dixon (12/11/2020)

**Introduction.** Honorable members of the NYC Committee of Criminal Justice, thank you for granting me the opportunity to testify on a civil rights issue of our day. As the Director of Community Engagement in the Parole Preparation Project, part of my responsibility is to interface with policymakers on punitive legislative bills, train attorneys on parole preparation matters, and assist formerly incarcerated persons with their reentry challenges. These functions equip me with a unique perspective on the subject before this committee.

Without deconstructing the term *punitive* segregation as employed in NYC jails, solitary confinement can be best summarized as having three interwoven components: racial, economic, and immoral.

**A Racial component.** Analogous to the current front-door punishment paradigm, there is a scourge of racial bias in the application of solitary confinement, particularly, as it relates to people of color within the correctional setting. In the era of Black Lives Matter, solitary confinement can no longer be alienated from the discussion. A recent investigation found that non-white incarcerated persons are punished twice as often as whites. They are placed in solitary confinement twice as often, and are held there for longer periods of time, and subjected to brute force by guards.<sup>1</sup> The dominant culture's message is clear: when blacks commit violent acts, they are demonized and classified sociopaths, placed in dog-like-cages, and medicated. When whites commit violent acts, they are deemed sick and given specialized therapy. Let's be clear, solitary confinement is a breaking tool sanctioned by the superstructure of White Supremacy to subjugate, dominate, and convert contemporary Kunta Kintes into Tobys.

**An Economic Component.** Secondly, from the perspective of prison guards and prison unions, solitary confinement settings are economically valuable. A locked-down prison environment perfectly generates cash-flow with minimal labor. The funds saved by closing these torture chambers could be reallocated to accommodate interventional services into NYS jails.

**An Immoral Component.** Thirdly, mounting studies reveal that solitary confinement leaves people more alienated, more hostile, and potentially more violent. Animal rights groups would be up-in-arms if animals were caged and treated as humans are in NYS prisons and jails. As a solitary confinement survivor, I retain many memories of men in solitary confinement. Images of them banging on walls and screaming violently at night as they sought to cope with the reality of being treated like animals. In the 1990s, my best friend committed suicide as a result of being placed in solitary confinement for only three weeks. In 2007, I talked a young person out of self-harm. He had been in solitary confinement for 8 months and was cutting his wrist every day. As a person who frequently interacts with people released from incarceration, I can attest that solitary confinement has destructive lingering effects upon the psyche of these individuals and it impacts them *for life*.

**In conclusion,** there is,

- No proof that solitary confinement curbs violence behind bars.
- No proof that it addresses systemic underlying issues.

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<sup>1</sup> [The Scourge of Racial Bias in New York State's Prisons \(2016, New York Times\)](#) | [Racial Bias Rampant in Upstate New York Prisons \(2018 New York Times\)](#).

- No proof that solitary can help someone become prosocial.

These torture chambers are counterproductive to correctional missions and values as well as inhumane. Surely, “corrections” can do better to live up to its name. I call on this committee to rise to its ethical obligation to end solitary confinement in our jails and spare us the shame of a troubled history. When this committee is ready to seek for humane alternatives, I will be available and ready to assist.

Thank you!

## INTRO 2173

My name is Victor M Herrera, a member and leader of **Freedom Agenda** campaign and a directly impacted and formerly incarcerated individual who has had direct experience with Solitary confinement on Rikers Island on numerous occasions and honestly most of the periods of isolation were for concerns related to my internal advocacy while detained and preparing for my own defense, a factor the City of New York Department of Corrections has used against me at every turn of forced punitive isolation.

The Mayor has promised an end to solitary confinement! I am here to stand to hold him accountable to that promise in hopes that the committee here today will follow the proposals as set out by the Jails Action Coalition of October 2019. I have had my share of experience IN THE 80'S AND 90'S with forced punitive solitary confinement solely for the purpose of personal animus against me on charges ranging from physically resisting staff to disobeying a direct order all stemming from the Department of Corrections Staff brutal abuses and flagrant violations of their own rules, all part of a pattern and practice of demonstrating authoritarian rule over the detained! I can count the times I have spent in isolation and most unlawfully on account of verbal disputes that were the product of the abuses occurring within the ranks and file of the Correction officers.

Ending solitary and removing the discretion and authority from Corrections to use punitive isolation will promote the best approach to reducing violence and promote the safety necessary for all concerned, staff and detainees alike. Removing exceptions that presently exist in the Board of Corrections Minimum Standards that permit Corrections to enforce indiscriminately a policy that would severely impact on the health of the detainees is necessary. It is not a day that goes by that my own segregation during my pre-trial detention and the 4 harsh years of solitary confinement in the State System does not affect me today. At times even during Lockdowns Correction officers and Facility personnel would extend the period of lockdown just for the benefit of not having to deal with the detained being out of cells, this clearly coming from all the occasions where the lockdown could be cleared but extended solely for their convenience not taking into account the emotional impact on those individuals unnecessarily locked into their cells.

Punitive segregation and solitary confinement have serious mental health impact that myself today is part of my own Post Traumatic Stress Disorder. I strongly believe banning solitary confinement totally and officially removing it from any form of use in NYC Jails is necessary. The Council must place strict limitations on NYC Jail Staff using any form of separation beyond what is necessary toward treating the core concerns of the detained individuals, especially today in which many of the detained are unable to have visits due to COVID-19 pandemic and depend on access to available means of communication to keep family connections. Restrictive housing unnecessarily targets individuals indiscriminately, and I am adamant that it's use needs to be monitored with strict oversight. The Department's total discretion to use it needs to be ended, and clinical providers must monitor the use of any form of segregation.

The counsel for the Department of Corrections statement that a fair process exists is not true or supported by the facts. The disciplinary process is better known as an internal Kangaroo Court controlled and administered by the hearing officer and the Department of Corrections which more often is abused and unfairly administered. To make it fair would be to pass the intro and allow for oversight even for the sort of disciplinary procedures in place that are overly burdensome and unfair, a tiered system set against the truth and procedurally manipulated. The Department may see due process as burdensome, but the Council must do what's right and ensure justice. Thank you.

Victor M Herrera



Testimony of

Sergio De La Pava

Legal Director

New York County Defender Services

Before the

Committee on Criminal Justice

Oversight Hearing - Ending Solitary Confinement in New York City Jails

&

Int. 2173-2020

December 11, 2020

My name is Sergio De La Pava and I am the Legal Director of New York County Defender Services (NYCDS), an indigent defense office that every year represents tens of thousands of New Yorkers in Manhattan's criminal. Thank you to Council Member Dromm, the Public Advocate Williams, and Council Members Lander, Reynoso, Rivera and Levin for proposing significant reform to the practice of solitary confinement in our city jails. I have been representing clients accused of crimes in this city for twenty-five years and that perspective allows me to fully appreciate just how critical and long overdue this reform is.

Sometimes a moral imperative becomes crystal clear. New York must end the state-sanctioned psychological torture that is solitary confinement. Imposing extreme isolation on a prisoner is inhumane and serves no rehabilitative purpose. The practice causes severe psychological trauma that can cause permanent damage to a person. It is never justified. But New York's current approach is especially unjustifiable. We impose isolated confinement far too broadly and routinely. It can be imposed in response to non-violent conduct and it is imposed for far too long a period of time. In the state system, prisoners can be victimized by it for months, years, or even decades, with little recourse to due process or other acknowledgement of their basic human worth. Any reform that reduces the scope of this baleful practice is urgently welcome.

## **WHAT IS THE DROMM BILL?**

This local law would set new restrictions on the use of solitary confinement and restrictive housing in New York City jails.

### *SOLITARY CONFINEMENT*

The Dromm Bill (Int. 2173-2020) would ban the use of solitary confinement unless such confinement is necessary to de-escalate immediate conflict. Even in those instances, an incarcerated individual may be placed in such confinement for no longer than four hours immediately following such conflict.

The bill also requires that whenever solitary confinement is used, the department shall prepare an incident report that includes a detailed description of why isolation was necessary to de-escalate immediate conflict and also the length of time the incarcerated individual was placed in solitary confinement. Also, incarcerated individuals placed in solitary confinement shall have access to at least ten hours outside their cells.

### *RESTRICTIVE HOUSING*

The bill would also limit the use of so-called restrictive housing to no more than four months in any twelve-month period. It also dictates that restrictive housing cannot be used unless a hearing on such placement is held pursuant to the rules of the board of correction. The placement of an incarcerated individual in restrictive housing shall be reviewed every fifteen days to determine whether the incarcerated person continues to present a significant threat to the safety and security of the facility if housed outside restrictive housing.

Individuals placed in restrictive housing shall have comparable interaction with other individuals and comparable amenities to those housed outside restrictive housing and shall have access to at least ten hours outside their cells.

We believe Int. 2173 represents a good first step towards ending the harm of solitary confinement in New York City. That being said, we have reviewed the amendments to the bill proposed by the Jails Action Coalition and urge this Committee and the sponsor to consider adopting all or most of the amendments. The need for robust protections against solitary confinement in city jails has never been more urgent.

## **COVID ISOLATION GIVES PERSPECTIVE ON SOLITARY CONFINEMENT**

The COVID-19 pandemic and its concomitant severe restrictions on social activity have demonstrated to the world the deleterious effects that isolation and a lack of human interaction can have on people's mental health.

In August 2020, the Centers for Disease Control and Prevention (CDC) released a report assessing mental health and suicidal ideation among individuals in the U.S. during the isolation caused by our current pandemic. The study was conducted in June 2020 and consisted of approximately 5,500 eligible participants. Of those participants, 40.9% reported an adverse mental or behavioral health condition. Of those who had a condition, 30.9% reported symptoms of anxiety or depressive disorders, 26.3% reported trauma-and stressor-related disorder (TSRD) symptoms related to COVID-19, and 10.7% reported considering suicide within the past 30 days. Participants who reported that

they were already receiving treatment for anxiety, depression, or TSRD, reported a worsening of symptoms.<sup>1</sup>

The mental health effects of COVID have been felt globally. In a study done through an online questionnaire for the US, Canada, UK and other countries, it was found that 50.9% of participants showed traits of anxiety, 57.4% showed signs of stress, and 58.6% exhibited depression.<sup>2</sup> These and other studies establish that interpersonal activity is a basic human need and that a pronounced reduction in same can create psychic harm. They also give us valuable insight into the question of whether it is morally just for a society to purposely impose great harm on the mental health of one of its citizens by creating an extreme deprivation of this need.

### WHY WE MUST END SOLITARY

Right now, too many New Yorkers are suffering in solitary confinement in jails across New York City. Incredibly, 5.5 percent of people in jail or prison in our state are in isolated confinement, a rate even higher than the national average of 4.4 percent. In New York City, the numbers are even more staggering. According to the *New York Times*, 13 percent of the more than 7000 people incarcerated in city jails in the first half of 2020 were held in solitary confinement.<sup>3</sup> And the clear majority of them are people of color. For example, Black people comprise about sixteen percent of all New Yorkers, but they make up fifty percent of incarcerated people and sixty percent of people held in long-term solitary confinement units. These racial disparities are constitutionally problematic, to say the least, and only serve to further delegitimize an already shameful practice.

It is shameful because solitary confinement causes extreme psychological harm and trauma. Twenty-two percent of people in jails suffering with symptoms of serious psychological distress had spent time in solitary in the preceding twelve months.<sup>4</sup> Depriving incarcerated people of adequate human contact and sensory stimulation results in adverse consequences that continue post-isolation and make adjusting to the general jail population, and ultimately to mainstream society, even more challenging than it already is.<sup>5</sup> Studies also show that solitary confinement creates powerfully deleterious effects with regards to mood symptoms, PTSD-related outcomes, psychotic experiences, hostility, self-injurious behavior, and mortality.<sup>6</sup> For example, people put in solitary confinement are more likely to harm themselves or to commit suicide than other incarcerated people. According to one study, people assigned to solitary confinement were 3.2 times more likely to

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<sup>1</sup> Czeisler MÉ, Lane RI, Petrosky E, et al. Mental health, substance use, and suicidal ideation during the COVID-19 pandemic — United States, June 24–30, 2020. *MMWR Morb Mortal Wkly Rep* 2020;69:1049–1057. DOI: <http://dx.doi.org/10.15585/mmwr.mm6932a1>.

<sup>2</sup> Shah, S.M.A., Mohammad, D., Qureshi, M.F.H. et al. Prevalence, Psychological Responses and Associated Correlates of Depression, Anxiety and Stress in a Global Population, During the Coronavirus Disease (COVID-19) Pandemic. *Community Ment Health J* (2020). <https://doi.org/10.1007/s10597-020-00728-y>.

<sup>3</sup> Jan Ransom, As NYC Jails Become More Violent, Solitary Confinement Persists, *NY Times*, Oct. 12, 2020.

<sup>4</sup> Beck, A.J. (2015). Use of Restrictive Housing in U.S. Prisons and Jails, 2011-12. *Bureau of Justice Statistics*. <https://www.bjs.gov/content/pub/pdf/urhuspj1112.pdf>.

<sup>5</sup> Corcoran, M.M. (2015). Effects of Solitary Confinement on the Well Being of Prison Inmates. *OPUS*, 37-39. <https://steinhardt.nyu.edu/appsych/opus/issues/2015/spring/corcoran>.

<sup>6</sup> Luigi M, Dellazizzo L, Giguère C-É, Goulet M-H and Dumais A (2020) Shedding Light on “the Hole”: A Systematic Review and Meta-Analysis on Adverse Psychological Effects and Mortality Following Solitary Confinement in Correctional Settings. *Front. Psychiatry* 11:840. doi: 10.3389/fpsy.2020.00840

commit an act of self-harm during their incarceration compared to those never assigned to solitary.<sup>7</sup> Incarcerated people who have been in solitary confinement also experience oversensitivity to stimuli, disturbed sleep, slowing of mental processing, chronic headaches, and increased heartbeat, all of which makes them more irritable and likely to overreact.<sup>8</sup>

Nor can it be persuasively argued that issues of safety somehow justify such cruel effects. Because evidence strongly suggests that solitary confinement is not an effective deterrent to antisocial behavior and may actually make those subjected to it more likely to later disobey the law or behave violently towards themselves and others.<sup>9</sup> So solitary confinement paradoxically makes everyone involved less safe.

Conversely, states that have taken steps to limit isolated confinement have found that doing so makes jails safer. In 2007, Mississippi instituted more objective criteria for admission to solitary and release from solitary, a mandated 90-day review of incarcerated people in solitary, and a written plan outlining how each person in solitary could secure release.<sup>10</sup> These reforms resulted in a decline in the number of prisoners in solitary confinement and a nearly 70 percent concurrent decline in the number of serious and violent incidents.<sup>11</sup> Colorado, following the appointment of Rick Raemisch as the Colorado prisons director in 2013, ended the practice of long-term solitary confinement that exceeded fifteen consecutive days and replaced solitary confinement units with de-escalation rooms for people with mental illness.<sup>12</sup> Raemisch instituted these reforms after spending a day in solitary confinement and the reforms increased safety.

Solitary confinement also makes our communities less safe. We all share a powerful societal interest in penal rehabilitation. We want people returning home from incarceration to thrive and succeed in their communities. We very much do not want them trying to reintegrate after having been traumatized and irreparably damaged by intentional torture. Each year, hundreds of New Yorkers are released directly from extreme isolation into our community. Very few receive any educational, rehabilitative programming, or transitional services to help them prepare for their return to society. The result is an artificially higher, if understandable, degree of recidivism for these former inmates.

Individuals who have been subjected to solitary confinement face special challenges that society is poorly equipped to address. According to Craig Haney in *The Science of Solitary: Expanding*

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<sup>7</sup> Kaba, F., Lewis, A., Glowa-Kollisch, S., Hadler, J., Lee, D., Alper, H., Venters, H. (2014). Solitary Confinement and Risk of Self-Harm Among Jail Inmates. *PubMed*. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3953781/>

<sup>8</sup> Corcoran, M.M. (2015). Effects of Solitary Confinement on the Well Being of Prison Inmates. *OPUS*, 37-39. <https://steinhardt.nyu.edu/appsyh/opus/issues/2015/spring/corcoran>

<sup>9</sup> Cole, K.M. III. (1972). Constitutional Status of Solitary Confinement. *Cornell Law Review*, 57(3), 476-489. <https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=3990&context=clr>

<sup>10</sup> Kupers, T.A., et al. (2009). Beyond Supermax Administrative Segregation: Mississippi's Experience Rethinking Prison Classification and Creating Alternative Mental Health Programs. *Criminal Justice and Behavior*. [https://www.aclu.org/sites/default/files/field\\_document/asset\\_upload\\_file359\\_41136.pdf](https://www.aclu.org/sites/default/files/field_document/asset_upload_file359_41136.pdf)

<sup>11</sup> Simms, A.A. (2016). Solitary Confinement in America: Time for Change and a Proposed Model of Reform. *Penn Law: Legal Scholarship Repository*.

<https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1198&context=jlasc>

<sup>12</sup> Simms, A.A. (2016). Solitary Confinement in America: Time for Change and a Proposed Model of Reform. *Penn Law: Legal Scholarship Repository*.

<https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1198&context=jlasc>

*the Harmfulness Narrative*, they encounter many serious obstacles to successful reintegration. There are few programs available that acknowledge their solitary-confinement-related traumas and assist them in overcoming the psychological aftereffects. Solitary confinement survivors are more likely to manifest symptoms of PTSD. Like the misguided *punishment* they were exposed to, the challenges they face are extreme. The results are unsurprising. Formerly incarcerated persons who spent time in solitary confinement are significantly more likely than other former prisoners to die during their first year of community reentry, especially from suicide, homicide, and opioid abuse.<sup>13</sup>

As public defenders, we advocate strongly and tirelessly for recognition of the basic human dignity of our clients. Solitary confinement makes a mockery of that concept. It is inhumane and should be a relic of the past. It creates, perpetuates, and exacerbates mental illness while reinforcing the toxic racial disparities in our criminal justice system. It reduces respect for our court and penal systems and acts as a stain on our collective morality. It has no place in a civilized society.

### RECOMMENDATIONS

NYCDS strongly supports passage of the instant legislation with the edits proposed by the Jails Action Coalition and offers the following additional recommendations:

1. The legislation creates a right to legal counsel for restrictive housing hearings and provides that said counsel shall be provided adequate time to prepare. We recommend the creation of a pool of attorneys skilled and trained in the rules and operations of the Department of Correction for this purpose.
2. In addition to passing this legislation, the Council should push for passage of the HALT Act at the state level. The HALT solitary confinement bill would limit isolated confinement in state facilities to fifteen consecutive days, or a total of twenty days in any sixty-day period. Any person held in solitary for more than fifteen consecutive days would have to be transferred to a Residential Rehabilitation Unit (RRU) where they will receive therapy, support, six hours per day of out-of-cell programming, and one hour per day of out-of-cell recreation. At least every sixty days, a person's placement in RRU will be reviewed in order to determine if they should be released. The bill is not a perfect solution, but it would represent a significant step forward.

If you have any questions about my testimony, please contact me at [sdelapava@nycds.org](mailto:sdelapava@nycds.org).

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<sup>13</sup> Craig Haney, *The Science of Solitary: Expanding the Harmfulness Narrative*, 115 NW. U. L. REV. 211 (2020).



**TESTIMONY OF  
THE FORTUNE SOCIETY**

**THE COMMITTEE ON CIVIL AND HUMAN RIGHTS  
OF THE NEW YORK CITY COUNCIL**  
250 Broadway, New York, NY

Friday, December 11, 2020

**SUBJECT:** The Fortune Society's support for ending solitary confinement in New York City jails

**PURPOSE:** To discuss how The Fortune Society believes that solitary confinement has an inhumane impact on our formerly incarcerated clients

Presented by

**Andre Ward**

Associate Vice President of  
The David Rothenberg Center for Public Policy

The Fortune Society  
29-76 Northern Blvd.  
LIC, NY 11101  
212-691-7554 (phone)

My name is Andre Ward, and I am the Associate Vice President at the David Rothenberg Center for Public Policy (DRCPP) at the Fortune Society. The Fortune Society is a 53 year old organization that supports successful reentry from incarceration and promotes alternatives to incarceration, thus strengthening the fabric of our communities. We do this by believing in the power of people to change; building lives through service programs shaped by the experiences of our participants; and changing minds through education and advocacy to promote the creation of a fair, humane, and truly rehabilitative correctional system.

Unfortunately, a fair, humane, and truly rehabilitative correctional system is not one that currently exists inside New York City jails. That is because one of the most inhumane practices that lies within the walls of the correctional world nationwide is also still being used within our jails. Indeed, through the experiences of many of Fortune’s clients, as well as those of members of our staff, we know that solitary confinement can inflict a lasting psychological toll on individuals. Extensive research has shown that those who have experienced solitary confinement in prison or jail often bring psychological damage home with them, to their families and to their communities upon their release. It is also a practice that continues to be used in a system that has little to no accountability or transparency nationwide. However, New York City can become a beacon of change, first within the state, and then even on a national level, if its correctional institutions put an effective end to this practice starting now.

Given the now well-known psychological effects of prolonged periods of time in solitary confinement—perceptual distortions and hallucinations, severe and chronic depression, weight loss, self-mutilation, lower levels of brain function, and suicide<sup>1</sup>—2019 was, in fact, a record-setting year in terms of nationwide changes to the practice. Twenty-eight states introduced legislation to ban or restrict solitary confinement, and twelve states passed reform legislation: Arkansas, Connecticut, Georgia, Maryland, Minnesota, Montana, Nebraska, New Jersey, New Mexico, Texas, Washington, and Virginia. Indeed, many advocates say that New Jersey passed the strongest law in the nation, limiting the length of solitary confinement to 20 consecutive days for all prisoners and detainees, while also limiting its uses for a wide range of vulnerable populations.<sup>2</sup>

However, while states across the country have changed their policies through legislation, our state Legislature never passed the HALT Solitary Confinement Bill last year. Instead, New York State has simply allowed corrections to write their own rules. These rules still allow for solitary confinement to go on for potentially tortuous amounts of time, allowing individuals to be locked in solitary confinement for years: although it is supposedly time-limited, the rules allow endless cycles of that time. The practice also continues to go on for numerous groups of vulnerable individuals, such as those who are gender non-conforming, those with mental illnesses, and even those with serious medical conditions. When solitary confinement was at its peak in New York City, it took the lives of young men like Kalief Browder; now, it still takes the lives of others, such as Layleen Polanco, a transgendered young woman who recently died of an epileptic seizure, all alone within her solitary cell.

Most importantly, however, solitary is continuing to be used in a punitive manner, rather than simply as a short-term emergency or protective measure. This bill would change that, by not

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<sup>1</sup> Jean Casella et. al., HELL IS A VERY SMALL PLACE: VOICES FROM SOLITARY CONFINEMENT (2016), at 11.

<sup>2</sup> Amy Fettig, ACLU, “2019 Was a Watershed Year in the Movement to Stop Solitary Confinement,” available at <https://www.aclu.org/news/prisoners-rights/2019-was-a-watershed-year-in-the-movement-to-stop-solitary-confinement/> (last accessed Dec. 7, 2020).

allowing the use of the practice unless the confinement is necessary to de-escalate immediate conflict. And even in that case, the confinement would be limited to a maximum of four hours. Instead, this bill would replace solitary confinement with simply more restricted housing. What's more, even this confinement could not go on for more than four months at a time, and it would still allow a restricted individual to spend at least ten hours a day outside of his or her cell.

As an organization that focuses on the successful re-entry of the formerly incarcerated, we have seen how the incarceration experience has caused many different forms of psychological trauma. As a result, the Fortune Society agrees with the position of The NYC Jails Action Coalition, which has stated that “[I]f the City is truly serious about safety and violence reduction/prevention, then that separation should be the opposite of isolation and punishment. It should involve opportunities for more intensive human engagement and programs to address the reasons for the separation and prevent future violence or harm.”<sup>3</sup> Indeed, research and experience has shown us that incarcerated individuals deprived of normal human contact have a much more difficult time of properly reintegrating into society, resulting not only sometimes in long-term mental health effects, but also in higher recidivism rates for those individuals who have experienced solitary confinement.<sup>4</sup>

Perhaps even worse, at a time when a global pandemic is wreaking havoc on the emotional, social, and economic life on the world, solitary confinement in the United States is now also being used as a way to separate infected individuals away from the rest of the incarcerated population. In fact, at least 300,000 people have reportedly been placed in solitary since the advent of the pandemic, an increase of close to 500 percent over previous levels.<sup>5</sup> In prisons in New York State whenever there is an outbreak, such as in Fishkill or Elmira, the prison has utilized its solitary confinement cells to perform the necessary quarantine.<sup>6</sup> However, it is important to remember that these are inhumane cells *designed for punishment*, in which a person cannot see or speak to anyone else. Yet, these cells are where prisons and jails are supposedly providing “health care” to its infected populations. Clearly, there are other solutions, from allowing for more compassionate releases, to moving all infected people to remain in one section of the jail, or even to coming to agreements with local hospitals about possible transfers. This is a time to think outside of “the box” and not within it.

As a formerly incarcerated man in New York State, I was sent to the box twice during my 13 years in prison, both times for “going against the rules” in incredibly trivial ways. All I can say about that experience is that I remember little of it other than the pain and trauma involved in spending a total of more than a half a year deprived of meaningful human contact, adequate

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<sup>3</sup> The NYC Jails Action Coalition & the #HALTsolitary Campaign, A BLUEPRINT FOR ENDING SOLITARY CONFINEMENT IN NYC JAILS (Oct. 2019), at 7.

<sup>4</sup> Lonnie Burton, “Solitary to the Streets: Cou Studies Find Such Releases Result in Higher Recidivism Rates, Violent Behavior,” *Prison Legal News*, Jan. 8, 2018, at <https://www.prisonlegalnews.org/news/2018/jan/8/solitary-streets-studies-find-such-releases-result-higher-recidivism-rates-violent-behavior/>

<sup>5</sup> Unlock the Box, SOLITARY CONFINEMENT IS NEVER THE ANSWER (Jun. 2020), p. 1, available at <https://static1.squarespace.com/static/5a9446a89d5abbfa67013da7/t/5ee7c4f1860e0d57d0ce8195/1592247570889/June2020Report.pdf>

<sup>6</sup> Krystal Cole, “Protests Ensur After Nearly 25% COVID Rate at Elmira Correctional,” *Spectrum Local News*, Oct. 28, 2020, available at <https://spectrumlocalnews.com/nys/binghamton/news/2020/10/27/nearly-25--of-elmira-correctional-is-covid-positive>; Courtney Gross, “With Over 80 Cases, Fishkill May Be The Frontline of Coronavirus in New York Prisons,” *Spectrum Local News*, May 6, 2020, available at <https://spectrumlocalnews.com/nys/central-ny/politics/2020/05/07/fishkill-correctional-facility-coronavirus-large-number-of-cases-among-new-york-state-prisons>

sunlight, having almost no recreational time, and having to ask for things as basic as soap. Many states have come a long way when it comes to banning solitary confinement for certain time periods or for certain populations.<sup>7</sup> But New York City needs to join the very few that have chosen to ban its use as a punitive measure altogether.

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<sup>7</sup> Fetting, *supra* note 2.