

The Proposed Rules Create Extremely Restrictive Environments that Amount to Solitary Confinement with Another Name



Young Adult Peer Provider: Deandre Simmons

My name is Deandre Simmons, i am a Young Adult advocate who does violence interruption and support to young people returning from detention facilities and jails. My experience within the justice system is that its not a fairly posed place to help us kids. I say kids because outhere in the nyc streets were treated and considered kids, but one time in a cage can make all that end. Being the son of a activist we suffer alot of harassment and arrests for just being black kid outside .

This leads to one place jail, for me my friends and family thats a real daily thing. Being that jails are bad places for kids we tend to end up in solitary or some sort of restriction to what a normal prisoner gets. My uncles tell me tales of when rikers was just a place for kids like us to get beaten like we were adults but also to remember you when and if you came back so each time it gets worse, this is what is being offered when were talking about creating a new unit to hurt those already denied a first chance. For myself and my young people im

defending this is a repeat of the ESHU and so many other “reasons” to allow the grown people who are paid to protect to have a greater painful place to offer the young people rather than investing in the young lives you are proposing we damage (mostly black boys) to more and more harm . basically making a youth or anyone not valid when they come home or are able to pay their way out fo jail. We say no more inhumane conditions for our people this board of people are supposed to protect us not allow more harm and mental abuse, this board needs to spend one day with me and the kids we serve to see the damage they live with

Solitary by another name

The Board of Correction proposed rules to purportedly end solitary confinement in New York City jails. However, the Board of Correction’s proposed rules simply create a new system of inhumane and abhorrent treatment that amounts to solitary confinement by another name. The Board must amend its rules to actually end solitary confinement in a real and meaningful way

e so-called Risk Management and Accountability System (“RMAS”) allows people to be held in conditions that are extremely restrictive and isolating, and effectively amount to solitary confinement by another name. According to the proposed rule, when people in Level 1 in RMAS have “out-of-cell” time, they are placed alone in another, slightly larger, cage. The rules only allow for there to be one other person, also alone, in a separate somewhat nearby cage. Similarly, when people in Level 2 in RMAS have “out-of-cell” time, they are in another, slightly larger, cage potentially alone, with three other people in separate nearby cages, or potentially with three other people in the same cage. For both Level 1 and Level 2, the rules only require that people be able to engage “both visually and aurally” and “in a setting where people can converse without needing to raise their voices to be heard.” These rules clearly allow, and indeed envision, that people will be in separate cages from one another during their “out-of-cell” time and will be at a distance from each other. For Level 1, and for the more restrictive version of Level 2, since people can be in separate cages apart from each other, this type of so-called “out-of-cell” time does not actually amount to out-ofcell time. It still involves being placed in a small cage without meaningful human engagement. Even if in the same cell with just one other person - which the rules do not even currently provide for - psychological experts have found that isolation in a

double-occupancy cell does not allow for regular social interaction, can be as devastating psychologically as other forms of solitary, and can lead to paranoia, hostility, and potential violence.

We recommend

“Out-of-cage” time must require access to meaningful congregate interactions with at least several people at a time in the same open space that is conducive for healthy human interaction and engagement. People must be treated as human beings, have opportunities for regular activities with other human beings, in spaces that are conducive for human beings to interact meaningfully.

The Proposed Rules Allow People to Be Held in Such Isolation Indefinitely People may be held in RMAS indefinitely. While the rules provide that people may be able to progress from Level 1 to Level 2 in the RMAS at 30 days, 45 days, or 60 days, the rules allow people to be held indefinitely in Level 1 based on a broad and vague “documented intelligence” that the person would engage in violence in Level 2. Under this rule, it would appear that any staff person could document that a person would engage in violence and use that as a basis for continuing to hold a person in these solitary-by-another-name conditions. Similarly, while a person may move from Level 2 to Level 3 in the RMAS after 15 days, the Department can hold a person at Level 2 based on the same type of vague “documented intelligence” that a person would engage in violence or that a person refused to participate in programming. This provision is a step backward from the current rules. Under current rules, there is a general limit of 30 days on people being held in punitive segregation and a 60-day limit for assault on staff charges. Under the proposed rule, the shortest time that a person could spend in the RMAS is between 60 days and 120 days, and a person could be held indefinitely at any or all of the three levels, potentially spending months or even years in these extremely restrictive environments, based solely on a vague claim that there is documented intelligence that a person would act violently.

Recommendation: There must be absolute limits on the length of time that people spend in RMAS. The length of any time limit is dependent upon the provision of meaningful programs and activities. If in fact there are such programs and activities in each level, the time limits listed should be actual hard limits, meaning that people should move through level one in 30, 45, or at most 60 days, and should move through levels two and three after

15 days. However, if there are not meaningful programs and activities and instead highly restrictive environments, there should be much shorter absolute limits, such as a total maximum time limit of 15 days in the RMAS

The Proposed Rules Do Not Provide Access to Meaningful Programming

The proposed rules do not require meaningful out-of-cell congregate programming. While the proposed rules require access to five hours of programming a day, such programming can take place in-cell or out-of-cell, without any specified amount of out-of-cell programs. Under the rule, then, a person could have a few minutes of out-of-cell programming and the remaining five hours of programming in their cell. Also, there is no requirement for the programming to be congregate in nature, and the rule fails to describe how much and the nature of contact with other incarcerated people or program staff. Based on past experience, programming could simply involve program staff briefly speaking with a person at their cell door and then the participant being given a workbook (or less) and told to do programming while in their cell

. **Recommendation:** All people in City jails, including those separated from the general jail population, should have access to at least 14 hours out of cell per day, with access to at least 7 hours of congregate out-of-cell programming and activities. Programs like CAPS in NYC jails, Merle Cooper in a New York prison (now closed), and the RSVP program in San Francisco jails offer interventions that do not restrict out-of-cell time, focus on meaningful pro-social programming and engagement, and actually work to reduce violence and improve safety

The Proposed Rules' Exclusions from Restrictive Housing Are Very Narrow and Do Not Protect Young People or People with Medical Conditions

The proposed rules have very limited designations of people who are excluded from placement in the RMAS. The rules use a very narrow definition of people with mental health needs by focusing only on people with "Serious Mental Illness." The rules also do not exclude young people or elderly people at all, nor people who have physical disabilities or medical conditions.

Recommendation: The rules should prohibit from placement in the RMAS or other forms of restrictive housing all young people aged 25 and younger, elderly people aged 55 and over, people with mental health needs, people who have physical disabilities, and people with medical conditions. My brother has mental health needs actually two of them we have to have more to offer than just the same cage i was made to sleep in. this is bad that all we can do is create more fried ways to punish our people.