

April 18, 2021

Ms. Jennifer Jones Austin, Chair
New York City Board of Corrections
One Centre Street
New York, NY 10007

Re: Proposed Rule on Restrictive Housing in Correctional Facilities

Dear Chair Jones Austin and Board Members:

I am writing to you as a concerned citizen and graduate student of the City and Regional Planning Program at Pratt Institute regarding the Board of Corrections proposed rules on restrictive housing within correctional facilities.

On the one hand, it's encouraging to see that the Board of Corrections will be moving towards ending the practice of punitive segregation, which is long overdue, following evidence of irreparable harm and deaths within the system. The system that will be following in its place is a first step in ensuring practices that treat individuals in corrections facilities as human beings with needs. On the other hand, the rules proposed do not go far enough to ensure accountability. Perpetuating restrictive housing within the larger context of a broken criminal justice system is an unacceptable condition to those of us seeking racial, social, and economic justice in our society. By continuing to reform a broken system, we avoid asking the questions of how to work towards the abolition of these systems of subjugation.

I'd like to discuss some observations within the two existing systems and propose that the Board of Corrections, and New York City government as a whole, widen its scope to imagine a world where neither restrictive housing nor the carceral system is necessary.

Notes on PSEG and Proposed Risk Management Accountability System (RMAS)

Solitary confinement, also known as punitive segregation (PSEG) has been considered a form of psychological torture¹ and the United Nations Special Rapporteur on torture and

¹ Wesley Boyd, J. "Solitary Confinement: Torture, Pure and Simple." Psychology Today, Sussex Publishers, 15 Jan. 2018, www.psychologytoday.com/us/blog/almost-addicted/201801/solitary-confinement-torture-pure-and-simple.

other cruel, inhuman or degrading treatment or punishment has “voiced alarm at the excessive use of solitary confinement by correctional facilities in the United States.”²

There have been countless instances of irreparable harm and death as a result of solitary confinement practices in NYC Correctional Facilities. After Kalief Browder took his own life in 2015, there was outrage at the brutal beatings and mental health torture that he faced in solitary confinement, despite being wrongly accused of a crime he did not commit for merely stealing a backpack.³ Additionally, the death of Layleen Polanco Xtravaganza highlighted the utter lack of accountability, cruelty, and violence of this system. According to the Minimum Standards of the Board of Corrections, detainees with mental or physical health conditions are barred from Restrictive Housing Units, yet Ms. Polanco-Xtravaganza found herself in this situation despite having visited Elmhurst Hospital while jailed, ultimately leading to her death.⁴ The burdens of restrictive housing of any form fall on the most vulnerable populations in our Black, brown, queer, trans, and gender non-conforming communities. Therefore, the move to end the system of PSEG in correctional facilities is long overdue and attributed to years of activism from a coalition of non-profit organizations such as the New York Campaign for Alternatives to Isolated Confinement (CAIC).

The Risk Management and Accountability System (RMAS) proposed by the Board of Corrections, however, does not achieve the goals of the #HALTSolitary campaign, and effectively amounts to solitary confinement in another name.⁵ “According to the proposed rule, when people in Level 1, more restrictive, 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,

² “United States: Prolonged Solitary Confinement Amounts to Psychological Torture, Says UN Expert.” *OHCHR*, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25633.

³ “Powerful Video on Kalief Browder and Why Rikers Must Be Shut.” *Innocence Project*, 20 Apr. 2020, innocenceproject.org/remembering-kalief-browder-year-suicide-rikers-island-shutdown/.

⁴ Goldensohn, Rosa, et al. “Ballroom Family Remembers Layleen Polanco, Who’d Spent Week in Hospital While Jailed.” *THE CITY*, 14 June 2019, www.thecity.nyc/2019/6/14/21211022/ballroom-family-remembers-layleen-polanco-who-d-spent-week-in-hospital-while-jailed.

⁵ *Key Flaws & Recommendations for BOC Rules to End Solitary Confinement in NYC*. CAIC, Apr. 2021, nycaic.org/wp-content/uploads/2021/04/Key-Flaws-Recommendations-for-BOC-Rules-to-End-Solitary-Confinement-NYC.pdf.

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.”⁶ Neither of these rules levels within the RMAS enable meaningful human engagement that psychological experts have called for as essential to human needs. The rules should redefine “out-of-cell” time to require access to congregate interactions with multiple people in open space settings to create healthy human engagement.

Additionally, there are not enough measures in place in these rule changes that require meaningful out-of-cell programming, access to counsel, and time limits on other forms of solitary. The rules should be extended to provide at least 14 hours of out-of-cell time with programs that provide social engagement that are proven to reduce violence and improve safety, rather than deteriorate mental health.⁷ The BOC must ensure that individuals have access to their own counsel and ensure that the individual and their counsel are provided notice for the allegations that require restrictive housing, which is currently not required by the rule. The rule changes must also be more specific to bar indefinite confinement periods and place limits on so-called “emergency lock-ins” and “de-escalation confinement.”

Moving Towards Abolition, Not Reform

Merely adjusting the hours that a person can remain outside of a restrictive housing cell, incorporating vague details of the new rules that govern people in RMAS, and the lack of additional rehabilitative processes does not ensure this transition will be successful. Any form of restrictive housing is unacceptable for incarcerated people, a majority of which are Black and brown New Yorkers, that have been stripped of their humanity and lack access to essential needs. The [prison abolition movement](#) calls for us to move towards non-reformist reforms, which seek to imagine future beyond confinement and control and instead seek alternative

⁶ *Key Flaws & Recommendations for BOC Rules to End Solitary Confinement in NYC*. CAIC, Apr. 2021, nycaic.org/wp-content/uploads/2021/04/Key-Flaws-Recommendations-for-BOC-Rules-to-End-Solitary-Confinement-NYC.pdf.

⁷ *Ibid.*

ways to repair the harm caused by individuals. In other parts of the world, such as Norway, correctional facilities focus on restorative justice practices and humane facilities that result in true rehabilitation leading to lower levels of violence and recidivism.⁸ [Ruth Gilmore Wilson](#), a scholar and activist of prison abolition, notes that societies such as these “have decided that life has enough value that they are not going to behave in a punitive and violent and life-annihilating way toward people who hurt people.”⁹ A central tenet to abolition that “no one is disposable.”¹⁰ Additionally, Wilson has further elaborated on misconceptions about abolition: “Abolition is about abolishing the conditions under which prison became the solution to problems, rather than abolishing the buildings we call prisons.”¹¹

I conclude by appealing to the Board of Corrections to go further in their proposed rule changes to permanently end any form of solitary confinement and instead focus on practices to enable individuals to transition away from restrictive housing and into therapy and rehabilitative programming. We should be bold and heed the call by abolition activists to move away from punitive justice reforms to restorative justice practices.

Sincerely,

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⁸ Sterbenz, Christina. “Why Norway’s Prison System Is so Successful.” *Business Insider*, Business Insider, 11 Dec. 2014, www.businessinsider.com/why-norways-prison-system-is-so-successful-2014-12.

⁹ Kushner, Rachel. “Is Prison Necessary? Ruth Wilson Gilmore Might Change Your Mind.” *The New York Times*, The New York Times, 17 Apr. 2019, www.nytimes.com/2019/04/17/magazine/prison-abolition-ruth-wilson-gilmore.html.

¹⁰ Gossett R, Spade D and Dector H. “No One is Disposable: Everyday Practices of Prison Abolition.” *Barnard Center for Research on Women*, 2014, <https://bcnw.barnard.edu/no-one-is-disposable/>.

¹¹ Gilmore RW and Murakawa N. “Covid-19, Decarceration, and Abolition” [Webinar]. *Haymarket Books*, 17 Apr. 2020, Available at: <https://www.haymarketbooks.org/blogs/128-ruth-wilson-gilmore-on-covid-19-decarceration-and-abolition>