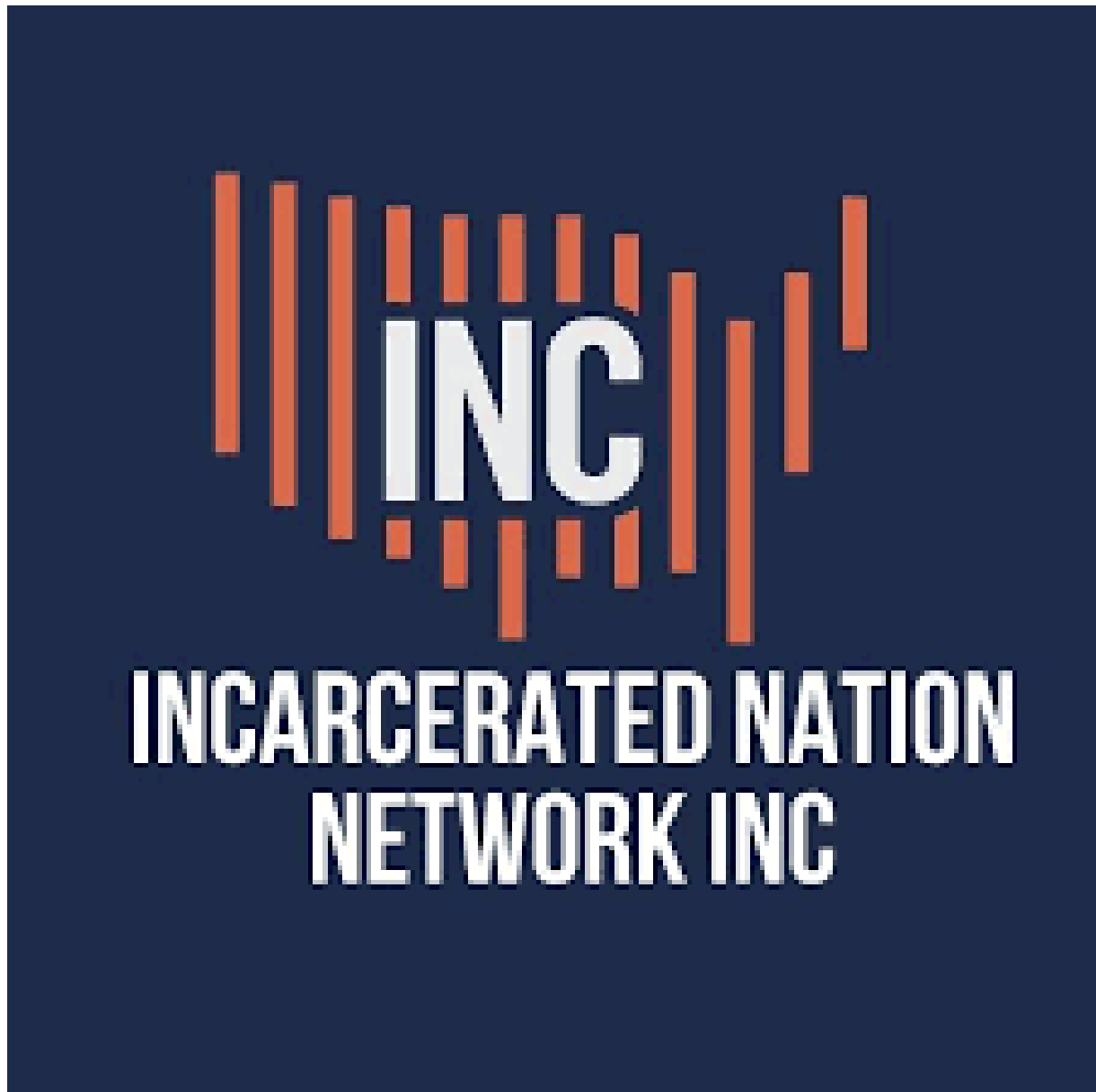


Testimony : Five Mualimm-ak

RULEMAKING CONCERNING RESTRICTIVE HOUSING IN CORRECTIONAL FACILITIES



Solitary confinement new unit

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.

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

For months o top of months sat in a cell in 1 south west the lockbox cell, within those walls i drove myself to being in a more damaged mental state, the lack of attention or medical needs that i had were never addressed, this is because we have conditions ourselves to believe that there is good and bad people. The bad people are assumed deserving of cruel and unusual punishment this is the core belief that drives corrections to always create punishment and not make efforts to rehabilitate or provide positive options. The true risk is we are avoiding the opportunity to help people at their weakest moment. We have a chance to end the perpetual punishment of so many who most of have not yet been sentenced or charged.we have a chance to end torture and confinement for the first time that is a responsibility beyond our duty to preseve life but to not continue what has been used since slavery.

The 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-of-cell 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. People who have been incarcerated in the structurally restrictive housing units at North Infirmery Command (NIC) and the Secure Unit at George R. Vierno Center (GRVC), which are the models for the RMAS units, have faced serious harm and raised significant complaints about the conditions in which they are held. 2

Recommendation: “Out-of-cell” 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.

The Proposed Rules Fail to Provide Time Limits on Other Forms of Solitary, Again Allowing Indefinite Solitary Confinement While the rules allow for other forms of solitary confinement, they do not specify definitive time limits on them. For example, the rules do not provide for any time limits on emergency lock-ins, again allowing the use of widespread solitary confinement indefinitely. The rules also do not provide specific meaningful limits on the scope of emergency lock-ins or the situations that can result in lock-ins, offering only vague reference to being "no longer than necessary" and requiring reporting the reasons for the lock-ins without limiting what those reasons can be. The rules also do not provide specific definitive time limits on so-called "deescalation" confinement. The rules purport to put a six-hour limit for each instance of deescalation confinement but do not do anything to prevent people from being repeatedly placed in deescalation confinement on the same day or repeated days.

Recommendation: There should be strict and precisely defined limits on the scope, reasons for, and lengths of time in emergency lock-ins and “deescalation confinement”, if they are to be permitted at all. Emergency lock-ins and placement in deescalation should be reviewed at least every hour and should never last more than four hours in any 24-hour period nor more than 12 hours in any seven-day period.

We desperately urge the Board to Consider these and so many other suggestions as to why we should not isolate people in a punishment process, our true problems is why peoples process takes years to see a judge, why we need to cycle 200,000 people through pour jails that are majorly black people.