



# Association of Legal Aid Attorneys UAW 2325 (AFL-CIO)



December 8, 2014

Gordon J. Campbell, Chair  
Members of the Board  
NYC Board of Correction  
51 Chambers Street, Room 923  
New York, NY 10007

Dear Mr. Campbell:

The Association of Legal Aid Attorneys, UAW Local 2325 represents the 1,000+ attorneys who work for the Legal Aid Society in the criminal, juvenile rights, and civil practices, as well as The Federal Defenders of the Eastern and Southern Districts, The Nassau County Legal Aid Society, and The Legal Aid Society of Orange County in Goshen, NY. We are writing today to express our opposition to the proposed change to the Jail Minimum Standards that would create new highly restrictive Enhanced Supervised Housing (ESH) and would not disallow the known harmful use of punitive segregation in the New York City Jails. This weakening of the Board's Jail Minimum Standards is unwarranted, unsupported by fact and sends the wrong message following the Department of Justice's August, 4, 2014 CRIPA Report about the abuse of youth in our jails. The DOJ Report detailed a culture of brutality and violence in our jails encouraged by DOC staff and identified the dangerous overuse of punitive segregation in our jails. The DOJ uncovered a pervasive pattern of false and inaccurate reporting about uses of force, questioned the reliability of DOC data, and cited "what amounts to solitary confinement at an alarming rate and for excessive periods of time." (DOJ 8/4/2014 Report at p. 3.)

The Department of Correction (DOC) requested the ESH rulemaking process indicating that the ESH is necessary if there are to be reforms of punitive segregation. However, nothing in the proposed rule includes the needed reforms to harmful use of solitary confinement other than the elimination of "owed time" and protections for 16 and 17 year olds.

The Board must not permit the Minimum Standards to be weakened. However, that is exactly what is currently proposed. The proposed ESH is far too punitive, lacks due process protections and does not represent the implementation of “best practices” for jail management. If the Board decides to change the Jail Minimum Standards by including ESH, it must, at the very least, do both things: remedy deficiencies in the ESH proposal **and** include fundamental limitations on solitary confinement so that modern humane practices are required by the Standards.

The DOC claim that ESH is not punitive rings hollow. The proposed ESH would indefinitely house individuals who are not serving a disciplinary sanction, under highly restrictive conditions. The proposed ESH restrictions are extreme, cumulative, and inflexible: reduction in out of cell time from 14 hours per day to 7 hours per day, inability to use the jail law library (replacing it with the in cell law library service that has proven inadequate in the jails’ punitive segregation housing areas), inability to attend congregative religious services outside the ESH, deprivation of all contact visits regardless of risk, packages limited to approved vendors and a “permissible items list” (*i.e.*, prisoners’ families, from the City’s poor communities, must always purchase new items for their family member), strip searches and mechanical restraints every time the person leaves the housing unit, and opening and reading all incoming and outgoing non-privileged mail. Vulnerable populations such as individuals with mental illness, physical disability, physical injury or young people (other than 16 and 17 year olds) are not excluded.

The proposal includes no periodic review of the continuing need for restricted confinement, no anti-violence or educational programming, no opportunity to earn early release or even some relaxation of restrictive conditions. This failure to provide programs and incentives

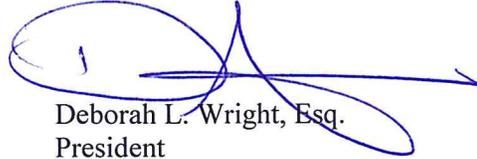
for good behavior is not a “best practice” in jail management. As proposed, the ESH is an inhumane set of restrictions intended to be imposed without hope of redress. This cannot be allowed.

We ask that the Board reject the ESH and instead strengthen the Jail Minimum Standards: provide for adequate due process and implement needed treatment, education and anti-violence programs in the jails. The Board should consider the following proposals, developed by the New York City Jails Action Coalition, as they formulate changes to the Jail Minimum Standards:

- Time limits on solitary confinement sentences  
*No one should be held in isolation for more than 15 days.*
- Exclusion of vulnerable populations from solitary confinement and from ESH  
*Incarcerated people under 25 years old, people with mental or physical disabilities or serious injuries, and pregnant women should not be placed in solitary confinement or in ESH*
- Time limits on cell confinement during a solitary confinement sentence  
*Every person in solitary confinement should be, at a minimum, allowed 4 hours out of cell daily, with meaningful access to programs, services, and social activity.*
- Limits on reasons for placement in solitary confinement  
*No one should be placed in solitary confinement as punishment for a nonviolent rule violation.*
- Creation of an alternative disciplinary system  
*DOC should develop a disciplinary system that provides incentives for positive behavior, offers out-of-cell programming tailored to the individual's needs, and establishes alternative sanctions for behavior that violates nonviolent disciplinary rules.*
- Improved Due Process Requirements  
*Before a person can be placed in solitary confinement or ESH, there should be a hearing conducted by non- DOC staff at which the accused person has representation and an opportunity to present evidence and to call and cross-examine witnesses. There should also be procedures through which an individual can be released from punitive segregation or ESH, and moved back into general population.*
- Increased training  
*Correction staff who work in solitary confinement and ESH should receive anti-violence, dispute resolution, and communication skills training, as well as, training in recognizing signs of psychiatric distress.*

We urge the Board not to approve the current proposed rule and instead to strengthen the Jail Minimum Standards by adopting needed reforms as discussed herein.

Sincerely,

A handwritten signature in blue ink, consisting of a large, stylized loop on the left and a long, horizontal stroke extending to the right, ending in a small hook.

Deborah L. Wright, Esq.  
President