



**TESTIMONY OF
THE FORTUNE SOCIETY**

The New York City Board of Correction

**RE: Proposed Changes to the Jail Minimum Standards Authorizing the Establishment of
Enhanced Supervision Housing (ESH) in NYC Jails.**

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Good morning. My name is Barry Campbell. I am testifying today on behalf of The Fortune Society, but I would like to first start by thanking the various members of the Board of Correction (BOC) for convening this important public hearing on the Board's proposed rule, which would authorize the establishment of a new form of inmate housing, known as enhanced supervision housing (ESH), for certain inmates in the custody of the Department of Correction (DOC). I would especially like to thank the Board for allowing The Fortune Society ("Fortune") an opportunity to testify.

I'd like to share with you a bit about Fortune's history. In 1967, David Rothenberg produced the off-Broadway play "*Fortune and Men's Eyes*." Written by John Herbert, a formerly incarcerated playwright, the play captured the experience of people living in prison. Since its founding shortly after the off-Broadway play, Fortune has served as a primary resource for New Yorkers released from jails and prisons seeking to build constructive lives in their communities; it now serves some 5,000 men and women with criminal justice histories annually. All of our programs are designed and implemented to meet the unique needs of this population through skilled, holistic, and culturally competent assessments and appropriate service provision. We build an initial relationship with clients that fosters trust and safety to begin the healing; often a crucial prerequisite to providing services for people with justice involvement; this is further reinforced by the degree to which our staff reflects many shared life experiences of our clients. More than 1/2 of our staff are themselves either formerly incarcerated and/or in recovery. We believe in the importance of this cultural competency; however, it is this same cultural competency, specifically, the narratives told by our staff and clients regarding their experiences within correctional facilities, including Rikers, which allows us a deeper understanding of the degradation and inhumanity experienced in such settings. As such, we started the David Rothenberg Center for Public Policy (DRCPP) seven years ago to "officially" utilize this experiential knowledge and unique understanding of the criminal justice system to shape and inform humane policy and practices.

First, I would like to share my personal experience of Rikers Island in the 1980s and make some comparisons to the situation today:

I was an adolescent in the 1980s incarcerated on Rikers Island. I know it is an environment where you are quite literally either "**predator or prey**" – a place where you cannot trust authority to protect you from danger. However, at least back at that time, there were many more therapeutic and educational programs available – beyond just GED classes. For example, there were substance abuse treatment programs, tutoring programs, and more opportunities for positive engagement and interactions. I had direct experience in solitary confinement – **being isolated while incarcerated is a nightmare!** New York City currently has one of the highest rates of solitary confinement in history, and the DOC has more punitive segregation cells than it did in the 1990s.

Fortune opposes the proposed rule amendments to the Jail Minimum Standards, which provide for the creation of Enhanced Supervision Housing (ESH) units. Fortune is extremely concerned over the potential weakening of the Board's Jail Minimum Standards, given the widespread attention to the excessively harmful and isolating conditions in the punitive segregation areas of Rikers as well as the high levels of violence and counter-rehabilitative conditions in Rikers Island on the whole. The Board of Correction voted in September 2013 to develop rules regarding solitary confinement, which were scheduled to be proposed before the end of this year. Rather than issuing new rules limiting solitary confinement, the Board is moving forward with a DOC request to lessen the Jail Minimum Standards in order to authorize the creation of Enhanced Supervision Housing (ESH) units. We recommend that any proposed changes to the Jail Minimum Standards, such as inclusion of the costly and highly restrictive ESH units, must incorporate limitations on the use of punitive segregation or solitary

confinement.

Fortune commends the Mayor and DOC for their announcement that they will eliminate solitary confinement for 16- and 17-year-olds by the end of the year. Young adults age 18-24 are also very vulnerable and share similar developmental health needs. We also support the proposal to end the practice of time owed, which requires inmates to finish serving the time in solitary confinement that they did not complete during previous incarceration. Additionally, reducing the maximum length of solitary confinement from 90 days to 30 days for each rule infraction is another incremental step in the right direction. However, the proposed rule does not adequately address comprehensive reform of the use of punitive segregation. Significant changes to the current use of solitary confinement or punitive segregation are still necessary. Moreover, it has been far too long a wait for this change and thousands of lives – including my own – have been negatively impacted by this horrific practice for so many years.

Fortune operates two major programs on Rikers Island, including a program for individuals with HIV/AIDS preparing for release and the Individualized Corrections Achievement Network (I-CAN) program for detainees and sentenced men and women. Ultimately, we serve thousands of individuals with criminal histories, many of whom have spent time on Rikers Island at some point in their lives. We are trying to help these individuals rebuild their lives in the community through reentry services, as well as alternatives to incarceration (ATI) and alternatives to detention (ATD). However, the devastating impact of Rikers Island makes our work so much harder than it should be, because the trauma, violence, isolation, neglect, and limited opportunities that they have behind those walls cause huge damage and is, itself, reinforcement for criminogenic behavior and poor health outcomes.

The DOC is advocating for the creation of additional highly restrictive housing unit conditions. ESH, as proposed, would not reduce punitive segregation units, but rather lead to the costly placement of more individuals in restrictive isolation. Staff may confine up to 250 incarcerated individuals, who may not be serving a disciplinary sanction, for up to 17 hours a day with restriction of freedoms including library access, contact visits, and attendance of congregate religious services. The requirement of strip searches and mechanical restraints each time someone leaves the unit further compounds the experience of dehumanization. The opening and reading of all incoming and outgoing non-privileged mail, restricting visitations to an approved list of visitors, and limiting incoming packages to approved vendors and a “permissible items list” incur further costs for those with limited economic means and compromise meaningful relations with loved ones.

The sensory deprivation, lack of healthy human interaction and intellectual stimulation, strict confinement, and extreme idleness of segregation can lead to intense suffering and severe psychological damage. Further troubling, vulnerable populations, including individuals with mental illness, physical disability, or physical injury as well as victims of sexual assault and young adults, are not excluded from ESH. The Department’s request to omit mental health evaluations as a requirement for placements in ESH is shocking considering the neglect and abuse of mentally ill individuals at Rikers, which have recently come to light. Severe limitation of social contact is not conducive toward improving jail security, the health and well-being of incarcerated men and women, staff conduct, or the rehabilitation process. In fact, evidence suggests long-term segregation is not only expensive, but counterproductive to facility and public safety. Overreliance on segregation can create or exacerbate serious mental health problems and assaultive or anti-social behavior, result in negative outcomes for institutional safety, and increase the risk of recidivism after release. Enhanced training of correctional staff in crisis intervention and how to resolve intense situations calmly and nonviolently may help

improve interactions with those incarcerated and staff's ability to identify and prevent conflict or violence before they occur.

The significant financial investment required to establish ESH could be better leveraged towards enhancing alternative responses to restricted housing and increasing much needed supports and services, such as educational opportunities, job training programs, substance abuse and mental health treatment, health literacy, and creative arts classes and workshops. Notably, cognitive and behavioral interventions targeting violence prevention, problem solving skills, and anger management may provide necessary tools to process and heal conditioned tendencies that may fuel anger into violent acts. For instance, the newly established "Second Chance" and the CAPS rehabilitative housing units at Rikers may serve as more cost-effective, humane, and successful alternatives to punitive segregation or ESH. As justice reform advocates, we seek to transform the response to people's needs and problematic behaviors, from deprivation and retribution, to additional support, programs, and therapy. Fortune would like to respectfully turn the Board's attention towards initiatives like the Vera Institute of Justice's Segregation Reduction Project and their Safe Alternatives to Segregation Initiative (SAS Initiative) designed to address the overreliance on segregation in correctional facilities. In fact, Vera, in partnership with the U.S. Department of Justice, is currently soliciting applications from state and local departments of corrections seeking technical assistance with the safe and effective reduction of their use of segregated prisoner housing.

We agree with many other service providers and public health as well as justice reform advocates that:

- The proposed ESH is far too punitive;
- The DOC has not provided adequate evidence that supports the necessity of ESH units;
- The proposed rules fail to include adequate solitary confinement/punitive segregation reform;
- There is a lack of due process protections afforded to those placed in ESH units;
- There is a lack of specific criteria for placement in ESH and low standards for meeting such criteria;
- There is no mandate to provide clear and convincing evidence for any placement in ESH;
- There is a lack of implementation of "best or promising practices" for jail management;
- There is no empirical evidence that ESH will improve conditions for staff or those incarcerated;
- Profiling "inmates who otherwise have either engaged in violence or demonstrated involvement in serious gang activity" threatens to biasedly expose individuals whom correction officers merely suspect or suggest are dangerous to the restrictions of ESH;
- The DOC fails to commit to providing individuals in ESH with adequate educational and therapeutic programming;
- The DOC's request to omit mental health evaluations as a requirement for placements in ESH should not be granted, given the high number of incarcerated men and women with a mental health diagnosis;
- DOC's proposed restrictions for ESH relating to visitors, packages, and mail are unnecessary and will have broad and devastating consequences for individuals and their loved ones;
- There are a lack of mechanisms or guidelines for enhanced staff training, capacity building, and technical assistance;
- There is no mention of increasing transparency, accountability, or performance measures;
- There are no guidelines for evaluation or data tracking of key changes or outcomes, which may provide useful data for guiding policy decisions.

As a society, we at Fortune believe that we can do better than this. Specifically, we must make a commitment to drastically decreasing the number of men and women on Rikers Island and affected families and communities by reducing the number of incarcerations for low-level offenses, expanding ATI/ATD programs, and by exploring options for incarcerating men and women closer to home when incarceration is necessary. We must put a STOP to the violence on Rikers Island because it is imperative that Rikers guarantee physical safety; an environment of “**predator or prey**” endangers both incarcerated men and women and correction officers alike, and builds a vicious cycle of violence that feeds on itself and fosters the very behaviors that the criminal justice system should reduce. We must ensure that justice-involved men and women receive the supports and services they need, including more educational opportunities, job training programs, substance abuse and mental health treatment, and creative arts classes and workshops while incarcerated, as well as solid discharge planning and needed services upon release.

Fortune is eager to work closely with the NYC BOC and DOC officials to be part of the solution to this entrenched problem. We understand all too well the potential of the Board’s oversight efforts to affect incarcerated men and women, correctional staff, as well as families and larger communities. With programs both inside and outside Rikers Island for those impacted by the criminal justice system, Fortune stands ready to provide many of the supports that justice-involved individuals need. With increased funding for positive programming directed toward this population, we could do even more.

We urge ALL BOC members to learn more about the men and women impacted by involvement with the criminal justice system by visiting our ATI/ATD, discharge planning, and other reentry programs and interacting directly with those, like myself, who have been on Rikers Island. Listen to the trauma and pain that we at Fortune hear every day doing this work. Then, let’s work together to address underlying challenges while maintaining and strengthening positive ties to families and communities.

Respectfully Submitted,

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