



National Alliance on Mental Illness

NAMI NYC Staten Island

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[insert your organization here] writes to oppose the proposed changes to the Jail Minimum Standards that would permit implementation of Enhanced Supervised Housing Units (ESHU) and would not restrict the known harmful solitary confinement practices in New York City jails. The Department of Correction (DOC) requested the ESHU rulemaking process but has not provided the public with the facts to support its asserted need for the units. The DOC has alleged that ESHU is necessary to reform solitary confinement in NYC jails, but failed to include in its proposed rules needed reforms of solitary confinement. The Board must not permit the Minimum Standards to be weakened by creation of ESHU without strengthening the Minimum Standards with rational limitations on solitary confinement. Moreover, the proposed ESHU 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 ESHU, it must, at the very least, do both things: remedy deficiencies in the ESHU proposal **and** include fundamental limitations on solitary confinement so that modern humane practices are required by the Standards.

The DOC claim that ESHU is not punitive rings hollow. The proposed ESHU would indefinitely house individuals who are not serving a disciplinary sanction, under highly restrictive conditions. The proposed ESHU 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 congregated religious services outside the ESHU, deprivation of all contact visits regardless of risk, packages limited to approved vendors and a "permissible items list" (i.e., 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 ESHU is an inhumane set of restrictions intended to be imposed without hope of redress.

This cannot be allowed.

The Board must use the rulemaking process to strengthen the Jail Minimum Standards and, in doing so, must not ignore the evidence of problems that are plaguing our City jails. Multiple reports including the August 4, 2014, Department of Justice CRIPA Report, cite a culture of brutality and violence encouraged by DOC staff, and identify 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 Board must reform the standards to limit the use of harmful solitary confinement in punitive segregation, protect vulnerable populations by excluding them from punitive segregation and from the ESHU, 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 ESHU

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 ESHU

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.

Limit 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

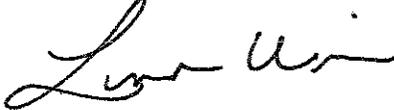
Before a person can be placed in solitary confinement or ESHU, there should be a hearing conducted by non-DOC staff at which the accused person has representation and an opportunity to present evidence and to call and cross-examine witnesses. There should also be procedures through which an individual can be released from ESHU and moved back into general population.

Increased training

Correction staff who work in solitary confinement and ESHU should receive anti-violence, dispute resolution, and communications skill training, as well as, training in recognizing signs of psychiatric distress.

We urge the Board not to approve the current proposed rule without incorporating needed reforms as discussed herein.

Sincerely,



Linda Wilson
Executive Director