



July 6, 2015

New York City Board of Correction
51 Chambers Street
New York, NY 10007

RE: DOC Request for Emergency Variance

Dear Chair Brezenoff and Board Members,

During the June meeting of the Board of Correction the Board heard from advocates and community members regarding grave concerns and important questions about the Department's efforts to roll back important limitations on the use of solitary confinement through the rulemaking process. The Board expressed its own concerns about proposed rule changes and declined to take action on proposed rule-making. The Board advised the Department to consider the concerns raised, and respond to questions from the Board and advocates about the proposed rules. Chair Brezenoff described the proposal as "a work in progress."

Unfortunately, no amended petition or supplemental information has been provided by the Department. The Department recently offered to meet with the Jails Action Coalition (of which BDS is a member) on July 9, 2015, a few days before the next Board meeting. However, neither JAC nor BDS has been provided any materials to review ahead of this meeting and therefore cannot meaningfully comment on any progress made to address the questions and concerns raised in June. Instead, the Department uses nearly identical language as its proposed rule to request an Emergency Variance to effect the same change – permitting the Department to override to the 7 day reprieve following a 30 day stay in solitary confinement – pending the Board's decision on rule changes. We request that the Board deny this request.

The Department cites 3.8% of people released from solitary as the population subject to possible overrides from the seven day reprieve from solitary following a 30 day sentence. The Department only provides descriptions of two such cases, and no evidence that more solitary confinement will reduce violence, but requests permission to impose uninterrupted long-term solitary confinement without meaningful oversight.

There may be a small number of people in any corrections system who will be challenging to manage, and we appreciate that the Department must prioritize the safety of all incarcerated people and staff. However, we do not believe that the only way to manage these individuals is to warehouse them in perpetuity in solitary confinement. During the Board's rulemaking in December 2014 and January 2015, the Board took a principled stance on limiting the use of long term solitary confinement in our city jails. The Board should stand by its principles.

The Board and the Department were hailed by the press and advocates for limiting solitary confinement, although we do not believe you have gone far enough. In order to preserve your principles and your integrity, reforms that mitigate torture must apply to **everyone** and be enforced. It is not enough to reduce the torture of people who should have never been in solitary confinement in the first place. Real solitary confinement reform involves addressing the serious and complex needs of the most difficult to manage individuals through creative and meaningful interventions. The Board should stand by its conviction that long term solitary confinement is harmful, ineffective and should be limited. The violent acts cited by the Department to justify their need for this Variance actually demonstrate that solitary confinement **does not work** to respond to and control violence, it only begets more. We again ask you to consider the end game – the warehousing of human beings in long-term solitary confinement.

In this moment the Board can choose to take a step backward as the Department requests, or see the challenges presented by the Department as an opportunity. We ask you to take this opportunity to step forward, and to engage the Department in developing thoughtful responses to violence that do not rely on torture. When you consider the issues before you, remember that the impacts will be felt by real human beings, their families and communities. New York City should be a leader in ending the torture of solitary confinement, not just better than the worst.

Thank you for your consideration,

Riley Doyle Evans
Jail Services Coordinator