

Testimony of Dr. Frances Geteles, Clinical Psychologist  
Board of Corrections Hearing on the Proposal to Amend the  
Minimum Standards for New York City Jails

December 16, 2019

My name is Frances Geteles. I am a Clinical Psychologist, licensed in New York State. I have worked with survivors of torture for more than 25 years as a volunteer with Physicians for Human Rights. I am also a member of the Campaign for Alternatives to Isolated Confinement (CAIC), an organization that is advocating for an end to the torture of solitary confinement in the prisons and jails throughout New York State. At several of your meetings in the past few years, we have discussed with you the horrible psychological and neurological effects that can result from an individual being held in solitary confinement. No human beings should be subjected to that damage. Hence, it is a truly urgent matter for you to put an end to this practice.

Understanding that the Board of Corrections is in the process of once again revising its standards for the jails here in the city, CAIC has teamed up with the Jails Action Coalition (JAC). Together, we have reviewed your newly proposed regulations and come to the conclusion that, while there are some improvements regarding limitations on the use of solitary confinement (called Punitive Segregation or PSEG or Enhanced Supervision Housing or ESH by you), the changes are insufficient. Furthermore, there are mechanisms built into the new rules, which would allow for the new limitations on the use of solitary confinement to be undercut, thus allowing for the possibility that this form of torture can continue. We have, therefore, submitted to you a blueprint for how we believe solitary confinement in all its forms can truly be ended in the jails. I am urging you to go beyond your own proposed regulations by implementing the principles and practices outlined in our blueprint.

A key improvement in your new rules is that, in keeping with existing research and with the UN resolution saying that more than 15 days in solitary is torture, you have reduced the continuous period of time someone can be in solitary from 30

days in solitary followed by 7 days out to a new cycle of 15 days in and 7 days out. However, it must be noted that, in the past, you have allowed the Department of Corrections (DOC) to request waivers of the 7- day-out rule. That waiver allowance contained within it the possibility that some of the people in your custody could still be tortured by being held in solitary indefinitely if waivers were requested and granted repeatedly. And your new standards make the situation worse, because the ability to waive the 7-day rule is now codified, which seems to mean that the DOC no longer has to request permission to keep someone in solitary beyond the 15 days. I have been told that, in the past the, multiple waiver requests for the same individual has rarely happened. While that was not as bad as might have been anticipated it should not have happened at all. Furthermore, codification of the waiver raises the question of what will happen now that approval is no longer required. Given the DOC's continuing addiction to punishment, and their apparent perception that they have no other tools for dealing with problems, one might expect that they will waive the 7-day-rule with much greater frequency thereby holding more people in solitary for indefinite periods and thus re-instating the practice of torture.

To make the situation even worse, you have also been allowing people in solitary confinement to be shackled to a desk within the solitary cell and to continue to be in an empty room shackled to a desk during required out-of-cell time. Your new rules allow this practice to continue for at least the next two years. Why is that? Your given explanation is that it will take that long for the DOC to implement the change. I do not understand that. How long does it take to remove someone's shackles?

The statement in which you put forth your new regulations for the city jails notes several core principles underlying your work. These involve treating people with dignity and respect and assuring that they will not be demeaned or dehumanized. These are fine principles, but how are the policies just noted in any way consistent with those principles? You cannot possibly claim that there is even a shred of dignity in being isolated and chained to a desk. In fact, it is terribly demeaning. It is also – as is solitary confinement itself – dreadfully dehumanizing.

The explanation that we are often given for the need to use solitary confinement is that it is a way to assure the safety of both the staff and the other incarcerated people. But we know, from the research that one of the major ways in which the damage of solitary confinement manifests itself is through heightened anger,

irritability, aggression and rage, loss of impulse control, and outbursts of physical and verbal violence against others and self. Causing these feelings and behaviors to worsen is clearly not the way to keep everyone in the jails safe.

Furthermore, we also know from the most recent report of the *Nunez Settlement Independent Monitor* that DOC staff often creates difficult situations by dehumanizing people in custody via their language, tone and non-verbal communication or via physical abuse like head strikes of painful escortholds. The resulting difficult situations are then resolved by the punishment of individuals who have been provoked to react by sending them to solitary confinement. If safety is really the issue, it is the behavior of jail staff that needs to be changed so there would be fewer excuses for putting people in solitary confinement and everyone within the jails would be safer.

It must also be noted that the rationale for solitary confinement as a safety measure is contradicted by the fact that there is often, as you acknowledge, “significant delays between adjudication and placement into segregation.” And your new rule though limiting the duration of the delay to no more than 30 days, still continues to allow the practice. But, if safety is truly the issue, this practice makes absolutely no sense. Clearly, if someone can be kept in general population for that length of time without additional problems, s/he is not a danger. So, once again, we can see that the only real motive for solitary confinement is punishment.

An essential question here is whether there are better ways to work with people to change problematic behavior. Your proposed new regulations make it clear that you are very aware of better ways to work with people to help them develop good behavior patterns. You begin your section about the new procedures for working with youth by citing existing successful programs elsewhere in the country where young adults are out of cell and unrestrained and priority is given to family engagement, self-expression, peer support, personal growth and development, education and job readiness. I believe that these ideas reflect the needs of all human beings and should therefore apply to everyone in your custody, adults as well as youth, and including everyone in some form of restricted housing. We know that the terrible psychological and neurological damage caused by solitary confinement is a function of isolation, lack of meaningful contact with other human beings and idleness. Thus, implementing the approach noted above is likely to mitigate the potential damage of solitary confinement, as well as provide a more effective way to help people alter their behavior.

At your recent hearings, many formerly incarcerated people have testified about how, when they were in your jails, they were, in fact, totally demoralized and dehumanized. They spoke about the imposition of solitary confinement, often for unjust and incomprehensible reasons and they described its destructive impact on them. Some spoke of being “treated like animals.” They know more than you or I do about what is really happening there and how damaging existing procedures have been for them. Since we all heard their testimony, I am urging you to listen. I am urging you to live up to your stated core principles by ending the demeaning treatment of people in custody and by ending the torture of solitary confinement, substituting instead the more humane ideas you have recognized.