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Independent Commission on NYC Criminal Justice and Incarceration Reform

Testimony of Zachary Katznelson, Policy Director
NYC Board of Correction, April 14, 2021

Good evening. I'm Zachary Katznelson, Policy Director at the Independent Commission on New York City Criminal Justice and Incarceration Reform, often known as the Lippman Commission after our chairperson former Chief Judge Jonathan Lippman. Thank you for the chance to testify.

I just want to note at the outset that we appreciate the extensive work Board members and staff have put into developing these proposed rules. We know this has been no small undertaking.

Now, solitary is unacceptable. It must be ended in all its forms.

Instead, we need a system that even while holding people accountable, maximizes human contact, access to programming and recreation, and adequate mental and physical health care. As other correctional systems have proven, that's how we better promote safety. The system we have today in New York City jails clearly is not working – for anyone.

There's an overarching point I'd like to make, please, before getting to the specifics of the proposed rules. Whatever rules are established will only be as good as their implementation. DOC today too often fails to follow policies and procedures due to a combination of mismanagement and lack of accountability throughout the Department. We need a true commitment from the Mayor and the DOC to change culture and operations – and real steps to do so, starting with proper staffing decisions. We also need the Department to do far more to prevent jail violence, in all its forms. Moving forward, we would encourage the Board to focus on ways, beyond solitary reform, to address this violence.

Looking at these proposed rules, we believe we can do better than the proposal before us today.

The rules have traded marginally better conditions for far lengthier potential terms in segregation than today – indeed potentially indefinite terms. We need real, firm caps on how long someone can spend in segregation.

Furthermore, the criteria to extend people's stays at different security levels are too vague and leave too much discretion to deny someone from leveling up.

Even as those criteria must be tightened, to help ensure true due process, people charged with disciplinary offenses that could land them in segregation, and people being reviewed for movement up and ultimately out of segregation should have the right to a lawyer, at each of those stages. They should also have the right to appeal the decision to deny them movement to the next level of security, again with the assistance of an attorney.

And then there's staffing assignments, which we all know is a massive problem for the Department. The rules smartly require staff to receive specialized mental health, communication, and de-escalation training. Every officer should have that, frankly. But until that day, the proposed rules will prove ineffective if they don't also ensure DOC assigns properly trained staff to the segregation units on every shift. Whenever a specially trained staff member is not available to work, their replacement must have the same training. Anything else does a disservice to both incarcerated people and to staff.

Thank you for your time and consideration.