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TESTIMONY OF NEW YORK CITY PUBLIC ADVOCATE LETITIA JAMES BEFORE THE STANDING COMMITTEE ON CORRECTIONS

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At the Office of the Public Advocate, we are fighting for a corrections system that prizes rehabilitation over punishment and facilitates successful reentry instead of tragic recidivism. To us, this means a humane prison system where solitary confinement is exceedingly rare and on the way to extinction. It means a system where physical and sexual abuse are no longer tolerated as a matter of course. It means a system where appropriate, trauma-based, mental health services are available to all and where HIV prevention and treatment efforts are improved upon. It means prisons with meaningful vocational and educational training opportunities that empower people to succeed on the outside.

Our office has already taken significant steps towards reforming New York City jails. Public Advocate Letitia James submitted a petition to the New York City Board of Correction to create enforceable rules under the City Administrative Procedure Act (CAPA) to address high rates of sexual victimization in city jails – particularly on Rikers Island. Data from the U.S. Department of Justice shows that 8.6% of inmates at the Rose M. Singer Center - the women’s only facility on Rikers – reported being sexually harassed or abused, compared to 3.2% of inmates in jails nationwide. We pushed back against proposed rule changes that would have drastically curtailed long-standing visitation rights and fought stalling procedures that would defang desperately needed reforms to solitary confinement. Our work will not be complete, however, until we help usher in reforms to the state prison system, where more than 60% of inmates hail from New York City.

Solitary Confinement:

New York led the way by becoming the first large state to curb solitary confinement by restricting its use for some of the most vulnerable inmates. However, we cannot afford to stop there.

We must speak plainly: solitary confinement *is* torture. It is important to bear in mind that the UN Special Rapporteur on Torture has stated that “any imposition of solitary confinement beyond 15 days constitutes torture, or cruel, inhuman or degrading treatment or punishment, depending on the circumstances.” Deprived of basic stimuli and normal human interaction,



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many segregated prisoners reportedly suffer from mental health problems including anxiety, panic, insomnia, paranoia, aggression and depression.

A comprehensive study of California prison suicides found that 75% of inmates who killed themselves were in solitary confinement, despite making up only 10% of the prison population. Additionally, pervasive use of solitary can gravely exacerbate and even create serious mental health conditions. We must move away from the use of this brutal tool that has such a deleterious effect on the mental health of human beings in the care of our corrections system.

The need for comprehensive reform is clear and I applaud NYSCOPBA for stepping up and joining the call to limit or end extended isolation. I strongly support the passage of the “H.A.L.T. (Humane Alternatives to Long-Term) Solitary Confinement Act” (S. 2659/A. 4401) sponsored by Senator Perkins and Assemblyman Aubry. The bill would prohibit entirely use of solitary confinement for certain vulnerable populations including young and elderly people, people with physical or mental disabilities, pregnant women, new mothers, and members of the LGBT community. Additionally, the legislation would place a limit of 15 consecutive days and a limit of 20 total days in a 60 day period on the amount of time any person can spend in segregated confinement, require basic accommodations such as out-of-cell time, congregate recreation, access to essential services, and create a ban on orders depriving basic necessities, including restricted diets.

However, DOCCS has the power to take unilateral action on this pressing issue, and I call on it to do so.

We need to move toward a world where solitary confinement is never used at all, excepting only, perhaps, those extreme scenarios where short-term isolation is necessary for the safety of an inmate or inmates. In the interim, we must improve conditions of isolated confinement, cease confining individuals for 23 hours of the day, and put a much shorter limit on the length of time an individual may be held in solitary.

The dictates of basic human rights make this an issue of the highest importance. We must look to our humanity and follow the prescriptions of our consciences.

Mental Health Services:

We have taken strides to improve mental health services in our prisons, but we need to do more and we need to do better. An estimated 56 percent of state prisoners, 45 percent of federal prisoners, and 64 percent of jail inmates have a mental health problem. These individuals often



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receive inadequate care, with only one in three state prisoners having received mental health treatment since their admission.

Suicide rates are 50-70% higher in New York than the national average for state prisons and a dearth of appropriate mental health services deserves a significant share of the blame. There are serious concerns about under diagnosis of mental illness, which leaves some who should be excluded from solitary confinement subject to its horrors and otherwise without the treatment they need.

We also cannot afford to tolerate a situation where Residential Mental Health Units (RMHU) and Behavioral Health Units (BHU) deviate from their intended atmospheres of healing and care and become punitive places. Physical and verbal abuse have no place in these units, yet reports of such abuse continue to be widespread. The Inpatient Care Program (ICP) has a proven track record of success, and we need to expand it as quickly and broadly as possible.

We should increase the availability of trauma-centered services and make mental health training for employees who work directly with inmates mandatory.

We also must do more to provide mental health services to those in the general population, whether for inmates designated as seriously mentally ill or otherwise.

We must also expand group therapy programs for the general population across our prison system.

We need to increase the number of non-disciplinary beds for individuals with mental illness and ensure that the drop in diagnoses of serious mental illness is based on science and not practical limitations.

We also must start transitional programming earlier and make it more comprehensive, ensuring that inmates with mental health issues have the tools they need to succeed on the outside and a release plan that will set them on the right track.

Too often, our jail and prison systems become little better than dumping-grounds for those whose mental illnesses make them difficult for society to care for. If we are serious about rehabilitation, we must start by ensuring that those who enter the system are treated and set on the right path, rather than allowed to deteriorate further.

Inmate Education:



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The vast majority of criminal laws that are enacted are narrowly focused on punishment, retribution, deterrence and prevention. None of these goals are inherently unworthy, but there is far too little focus on rehabilitation and reentry. Smart rehabilitation and re-entry policies are often treated as antithetical to law-and-order when, in fact, they only bolster it. If an individual comes out of the penal system with a set of vocational skills or an education and has a meaningful chance to become a law-abiding, gainfully employed member of society, that means less crime and a stronger economy.

Studies have consistently shown that the higher the level of education an inmate attains, the more likely it is he or she is will obtain gainful and stable employment, and the less likely he or she will be to recidivate. Studies have shown education funding for inmates is public money well-spent: every \$1 spent on prison education translates into \$4 or so in savings during the first three years post-release.

Higher education is the great equalizer, opening the doors to economic opportunity and social mobility. For individuals who have had encounters with the criminal justice system, there is perhaps no greater predictor of future success nor stronger guard against the perils of recidivism. In-prison higher education programs have been shown to reduce recidivism by 40%. In fact, according to a New York City organization that works with post-incarceration college students in New York City, less than 1% of the population it works with has returned to prison.

According to a 2011 Report by the Correctional Association of New York:

Prison administrators, program practitioners, and incarcerated persons alike also recount the positive effects of college programs in prisons: providing an incentive for good behavior; producing mature, well-spoken leadership who have a calming influence on other inmates and on correction officers; and, reducing the tension and violent interactions between inmates and staff and among inmates.

Unfortunately, Pell Grants for inmates were eliminated by the Violent Crime Control and Law Enforcement Act. New York then compounded this grave problem by eliminating the availability of New York's Tuition Assistance Program (TAP) in 1995, which led inexorably to a near total decline in college education for New York inmates.

While the full implementation of a robust college for prisoners program will almost certainly require legislative and gubernatorial action through the budget, DOCCS should do its part to pave the way and put in place whatever limited programs are currently possible.



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For one thing, DOCCS can do a better job of making available primary education to those inmates who are without a high school diploma. DOCCS should create academic programs to prepare all inmates to obtain a General Equivalency Diploma (GED) and give all inmates the chance to complete a GED before release on parole, conditional release, post release supervision or presumptive release. We also must increase funding for education and vocational training programs, so inmates have marketable skills when they return to the outside. Some of this can be done through a reallocation of resources that puts more emphasis on filling the increasing vacancies at educational postings. Additionally, we should harness the capabilities of qualified inmates and create more opportunities for them to serve as assistant instructors and even run their own workshops. We must also ensure that educational programs are available to all by lifting restrictions against in-cell learning for those in isolated confinement and hiring more instructors capable of teaching English as a Second Language (ESL) inmates.

We must also significantly expand vocational training opportunities for the currently incarcerated. Prisoners who receive vocational training were 28% more likely to obtain post-release employment. Everything from carpentry, electrical trades, painting, plumbing, food service/culinary arts, horticulture, custodial maintenance, masonry, welding, and heating, ventilation, and air conditioning maintenance has been shown to pay real dividends for inmates who receive meaningful and concentrated training.

By emphasizing inmate education, we can do better by our inmates and better for ourselves. These are investments worth making, and we must have the foresight to give education the resources it needs.

Conclusion

The path to a corrections system based on the principal of rehabilitation is a long and fraught one, but it is well worth our efforts. We must work towards putting an end to the tortures of solitary confinement and foster an environment of constructive mental health services. We must also do all we can to cut down on recidivism by maximizing the educational potential and work-place readiness of those who end up in the system. By adhering to these principals, we can foster a corrections system worthy of this great state.