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Ms. Hildy Simmons, Chair
Mr. Richard Wolf, Esq., Executive Director
New York City Board of Corrections
51 Chambers Street, Room 923
New York, NY 10007

Re: Proposed Amendments to the Minimum Standards

Dear Chairwoman Simmons and Mr. Wolf:

I am writing this letter in opposition to the Board's proposed revisions to the Minimum Standards, and seek the withdrawal of these proposals.

Initially, I am dismayed by the fact that these proposed changes were not highly publicized to residents of New York City, especially to those who live in lower-income communities, from where the majority of city jail inmates come (perhaps as a result of disproportionate numbers of arrests of residents in these communities, and the inability of many of the inmates' families in these areas to post bail). Indeed, if I was not an attorney with The Legal Aid Society's Criminal Defense Division, it is doubtful that I would have heard about these proposals.

One of these proposed changes that concerns me greatly is the potential increase of inmates subjected to 23 hour lock-in policies. Practicing in Bronx County, I represent many inmates who face criminal charges arising from alleged incidents at Rikers Island facilities. A large portion of these inmates are on 23 hour lock-in status prior to their re-arrest on Rikers Island incidents. From my experience, this lock-in policy not only exacerbates the symptoms of inmates who are already mentally ill, but also tends to trigger anti-social behavior and mental deterioration in inmates who were previously healthy. Extending this 23 hour confinement to inmates who are seeking segregation solely for their own protection could have devastating consequences to an already fragile group of inmates. Additionally, this drastic confinement may have adverse effects on the criminal justice system as a whole, as inmates who are in protective custody because they are witnesses to crimes or are cooperating with law enforcement may be less likely to provide information or testify if they

know they will be locked in their cells for all but one hour a day.

I am also troubled by the change requiring inmates detained prior to trial to wear jail uniforms for all court proceedings except their actual trials. A jail uniform is inherently prejudicial in all court proceedings, not just those for trial. For example, inmates testifying before the grand jury should be allowed to wear civilian clothing, as jail uniforms may cause grand jurors to unfairly presume guilt on behalf of pre-trial detainees. It is truly unjust for a criminal defendant to be required to appear in court in a jail uniform, and thus appear “guilty,” solely because he or she is financially unable to post bond or bail. Further, it is unclear as to how this policy will work in practice. Due to matters of witness and attorney availability, along with the availability of court parts, attorneys themselves are often unsure as to when cases will actually proceed to trial. How will the correctional facility know a case is on for trial, and thus when to allow an inmate to wear non-jail clothing? Not only do jail uniforms create the presumption of guilt in court proceedings, there is no clear plan in place to provide for inmates to wear civilian clothing if they wish to testify before a grand jury or are unexpectedly sent out to begin their trial.

Finally, and perhaps most importantly, I am disturbed by the proposal to allow the New York City Department of Correction to eavesdrop on inmate telephone conversations, especially because effectuating this change would essentially mean that the Board has unilaterally decided to exempt the Department of Correction from any probable cause and/or warrant requirement to conduct surveillance of telephone conversations. This proposed change is unduly intrusive upon the minimal privacy that is allowed to inmates. Additionally, while this revision claims that privileged phone calls, such as those between inmates and their attorneys, clergy and physicians, will not be subject to surveillance, there are no provisions as to how the Department of Correction will avoid eavesdropping on these privileged calls, as inmates make all calls from the same telephones.

As a both a longtime New York City resident and as an attorney providing criminal defense to the indigent, I am adamantly opposed to these potential amendments. I ask that the Board withdraw all of their proposed amendments and begin the process anew. I would also suggest that with these proposed changes and any future amendment proposals, the Board seek input from the community it is supposed to serve, rather than the Board implementing changes on its own—this is to the detriment of New York City’s correctional facility inmates and their loved ones.

Very truly yours,

A handwritten signature in black ink that reads "Shana Skaletsky, Esq." The signature is written in a cursive, flowing style.

Shana Skaletsky, Esq.