



STOP PRISONER RAPE

April 16, 2007

Ms. Hildy J. 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:

We are writing to oppose the proposed amendments to the Minimum Standards for New York City Correctional Facilities. These amendments were prepared after a closed-door process with the Department of Correction which was not publicly announced and of which the community was largely unaware. Not surprisingly, the result of this process is completely skewed towards the convenience and discretion of the Department of Correction. Though the Board claims to have conducted "the first comprehensive reexamination of the Minimum Standards" since their enactment, there is virtually nothing in the proposed amendments to benefit inmates, detainees or their families.

Among the most objectionable features of the amendments are:

1. **More crowding.** We oppose the proposed amendment that would reduce the required space per person in open dormitory housing units from 60 square feet to 50, allowing each unit's population to rise from 50 to 60. These housing areas are already crowded at 60 square feet per person and that's often the cause of fights and assaults. Many of the dorms are plagued with unsanitary conditions and have severe maintenance problems. More individuals per square foot not only means increased potential for friction among detainees and inmates but also increased difficulty in surveillance by staff. The potential for abuse to go unnoticed can only be worsened by this increase in population per dorm. Additionally, this measure is unnecessary. The jail population has fallen since the early 1990s, and the City has in fact *closed* jails as a result. The Board cites no affirmative justification whatsoever for making the jails more crowded; it merely states its belief that doing so "would not adversely affect safety and security."

2. **More 23-hour confinement in cells.** We oppose the exclusion of "close custody" housing from the Standards' provisions concerning cell lock-in. The Standards have long required that inmates and detainees be separated from the general population for reasons other than their misconduct. Persons known to be at risk of assault, or whose criminal charges might put them at risk were allowed substantial lock-out time, during which they could be outside their

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cells to congregate in a dayroom with a television. They could go to the clinic, the law library, the guidance and counseling office, etc. The proposed amendments would allow these inmates and detainees to be locked in their cells 23 hours a day similar to individuals who had committed major disciplinary infractions, exiting only for showers and recreation periods, with services supposedly brought to their cells.

Adoption of this new standard would place those in close custody in *greater* jeopardy. It is well known that placement in protracted isolated confinement can have severe psychological consequences for mental health and may present a substantial risk of suicide. A young stockbroker who had sought protective custody killed himself while in 23-hour lock-in only a few months ago. A 23-hour lock-in makes inmates and detainees completely dependent on jail personnel to bring essential services to their cells and may compromise medical and mental health treatment. The Department of Correction introduced close custody housing without authorization last year, relying on a convoluted interpretation of the existing Standards that the Board chose not to challenge. Rather than ratifying this action in the Standards, the Board should prohibit it. The Department should protect the safety of inmates and detainees through close surveillance and not through near-round-the-clock cell confinement.

3. ***Denial of personal clothing.*** We oppose the proposed amendment that would remove the right of pre-trial detainees to wear their own clothing, a policy that has been in effect for decades, and instead require them to wear jail uniforms. This dehumanizing measure should not be imposed on individuals who have not been convicted of any crimes. Nor should families be prevented from ensuring adequate clothing for their incarcerated family members when there are changes in temperature within the jails (i.e., by providing them with long underwear or with shorts and short-sleeved shirts). It is also doubtful that the Department of Correction would be able to reliably deliver sufficient clean clothing in acceptable condition and sizes to all 14,000 inmates and detainees. DOC has allowed many of its laundry facilities to fall into a state of disrepair, and though laundry service is theoretically available in some of the jails and detention facilities, most inmates and detainees are reluctant to make use of them, instead washing their clothes by hand in their showers. Though the change requires the Department of Correction to come up with an adequate system of laundry and storage, there is no provision for the Board of Correction to verify its adequacy. Further, the proposed amendment would require detainees to go to court in prison uniforms for all court proceedings except actual trials, a requirement which cannot help but be prejudicial to their criminal cases.

4. ***Spanish-speaking inmates and detainees.*** We oppose the amendment that would repeal the requirement that the jails have sufficient Spanish-speaking staff to assist Hispanic inmates and detainees, and would provide only that the Department of Correction must implement "procedures" to ensure that they can understand communications from staff. These procedures are not spelled out. The Board should not alter this Standard until and unless there is a concrete program to improve the situation of all persons in the jails who cannot communicate adequately in English.

5. ***Denial of contact visits during an inmate's first 24 hours of incarceration.*** We oppose the amendment that would deny inmates contact visits with their families and friends

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during the first 24 hours of their jail stay. The Board has offered no justification for this revision. This is a period widely recognized to be when newly jailed individuals are at heightened risk of suicide. For all inmates and their friends and loved ones, it is a time of heightened stress when contact is most critical. The visiting standards need to be improved, not weakened.

6. *Surveillance and censorship.* We oppose the amendments that would destroy the remaining vestiges of privacy allowed to detainees and inmates in the jails. One of these would allow the Department of Correction to listen in on the telephone calls of detainees and inmates, entirely at their discretion, doing away with the present requirement for a warrant. The *only* requirement for this surveillance is that an inmate or detainee receive notice of the surveillance, which might simply mean putting signs over all the telephones saying the calls may be listened to. The proposed change advises that calls to the Board of Correction, Inspector General, other monitoring bodies, treating physicians, attorneys, and clergy, would not be listened to, yet these calls are made over the same telephones as calls to family members. No plan has been provided to avoid surveilling privileged calls. The Board cites no justification for this change except "heightened security concerns"—what concerns, or heightened by what, it does not explain.

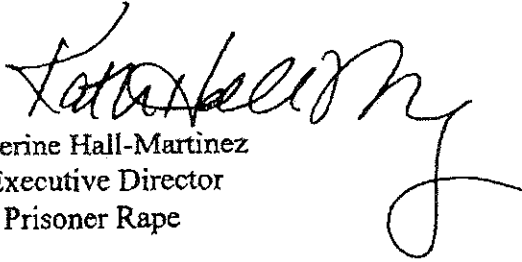
In the same vein, the proposed amendment concerning correspondence would drop the requirement of seeking a warrant to read or even ban incoming and outgoing mail if the warden "has a reasonable basis to believe" that the correspondence threatens facility safety or security, "another person, or the public." It is precisely this kind of open-ended official discretion that the warrant requirement is intended to curb. The amendment would ban inmates and detainees from receiving publication "when there is a reasonable belief that limitation is necessary to protect public safety or maintain facility order and security," with no suggestion as to what might provide a basis for such a belief, and no provision for any neutral party to review jail personnel's actions. Similarly, the grounds for excluding publications are expanded from those containing instructions on making explosives or escaping to include "other material that may compromise the safety and security of the facility," with no indication what that material might be. Again, no justification is cited other than unexplained "heightened security concerns."

7. *The lack of positive amendments.* We are appalled by the one-sided character of these amendments. There is nothing in them to make the lives of inmates and detainees less oppressive or to benefit members of the community in their dealings with the jail system. For example, nothing is done about the long delays visitors experience in trying to see their loved ones in jail. There is nothing to mitigate the extreme delays detainees are subjected to in trips to and from court, during which they often sit idly for hours on end in holding pens and in buses. There is nothing to protect the rights of young inmates and detainees to go to school—rights about which the City had to be reminded in recent years by federal court litigation. There is nothing to protect inmates and detainees from abusive search practices, a matter which was governed by court order for many years, but as to which inmates and detainees now enjoy no protection. Such examples could be multiplied many times.

Conclusion. There are other things in the proposed amendments that we oppose or consider questionable or inadequately justified, but we will not list them all. Suffice it to say that this process has been compromised from the beginning by its one-sided and exclusionary

character. We therefore call on the Board not to withdraw or adjust one or another of the proposed amendments, but to withdraw all of them and start over, opening the process to the community as well as to the agency that the Board is supposed to regulate, and conducting a genuine "comprehensive reexamination" of the Standards—what is in them and what is *not* in them—that reflects the interests of all concerned parties.

Sincerely,



Katherine Hall-Martinez
Co-Executive Director
Stop Prisoner Rape