THE LEGAL AID SOCIETY
CIVIL

Bronx Neighborhood Office
260 E. 161st Street, 8th Floor
Bronx, NY 10451
T (718) 991-4600
www.legal-aid.org

Janet E. Sabel
Attorney-in-Chief
Chief Executive Officer

Adriene L. Holder
Attorney–in–Charge
Civil Practice

Marshall Green
Attorney–in–Charge
Bronx Neighborhood Office

December 1, 2019

Members of the Board of Correction
1 Centre Street
Room 2213
New York, New York 10007

Re: Restrictive Housing Practices

Dear Members of the Board of Correction:

Thank you for the opportunity to testify today, and the extension of an additional day of testimony on the very crucial subject of isolated confinement in the city jails. As of June, I began working at EMTC and RMSC once a week within the RIDE Support Center or Support Services. Together with Benefits Specialists and others, I provide civil re-entry legal support to folks held by the City Department of Correction ("the Department").

How Re-Entry Support Works In the Jails

Our work shows us how various forms of Restrictive Housing – both that which is publicly named as such and that which operates as such regardless of name – affect individuals concretely in their efforts to come home safely.

In the model for my program, signs for it are up at EMTC and RMSC, the law library has a stack of my referral forms, and not only all defenders but all correction officers, volunteers, and others know of my Program. A client may be arrested and, having been sentenced to four months, be worried about a potential eviction. If they swiftly make contact with me we can work on this together. A client may be arrested and, after arrest, find out that their SSDI was paused even though they have no conviction. If they meet with me, together we can get the SSDI back. A client may be arrested and decide that they will use this time to correct their name and gender on their IDs, and if they find me, again, we can do this together.

In addition, civilian staff in support services help to turn on Medicaid and SNAP, put in applications for arrears caps on child support due to incarceration and poverty, and help bring people into supportive long-term programs at the Fortune Society, Friends of the Island Academy, Osborne Association, and more. These wrap-around programs can become a vital source of stability during re-entry. When individuals do not have access to these services, it shows in recidivism, self-isolation, and more. [1]

[1] Research on individuals leaving North Carolina prisons between 2000 and 2015 provide some of the most comprehensive data on this subject. Following both people going straight from solitary to the streets and those leaving through general population, researchers found that people held in any form of isolated confinement were 24% more likely to die in their first year after coming home. Within that group, 78 percent died from suicide. These individuals were also 127 percent more likely to die from an opioid overdose in the first two weeks after their release. To my knowledge, there is no similar study for New York City, however there is no reason to think that

Individuals in Restrictive Housing Miss Re-Entry Opportunities

On average, I am scheduled to see ten to eleven people each week, but in practice see only seven or eight. Why? Restrictive housing. Since June, some 23 individuals have not been able to meet with me due to restrictive housing. I am almost never told the particulars – who is in keep-lock versus the bing versus some new form of restriction – but I am often told the generalities. A few examples of reasons clients cannot access our re-entry services are:

- A transgender woman in Protective Custody at EMTC could not be brought down when any male-identified individuals were using the support center—which took all day, as the Support Center is open only until afternoon count. I did not get to meet with her until two weeks later. This meant that we lost vital time in finalizing and submitting a housing application as I needed her final review and approval.
- A cisgender man at EMTC was not brought down to see me as he was "gang affiliated" and could not be in the Support Center until everyone else had been seen. There was not enough time to see him and he was discharged before I made any contact with him.
- A cisgender woman at RMSC being held in disciplinary solitary was not able to meet with me due to there being no escorts available for that unit. I find that restrictive housing units – in general – are the last units to be offered anything such as a program escort. This individual was released a few days later and I was never able to tell her about my services or offer any legal support to her.

On average, I see more people in some form of isolated or restricted custody at RMSC than at EMTC and the majority of people I see in some form of restricted housing identify as transgender. This could be because I am known among transgender populations on Rikers and so transgender people in isolated confinement ask for me more than a cisgender person would. It could also be that, on average, more transgender people are restricted than not restricted when compared to cisgender people.

The Impact of Restrictions on Re-Entry Planning

I want to try to make some of these restrictions very real and tangible to those of us who have never felt them on our body. My clients come in with a chain around their waist and their hands shackled to that chain in the back. They then have their hands re-positioned to their front. Their hands are completely covered in what look like large black foam cups. The first time I saw a client like this I naively assumed it was a medical apparatus and that the client was injured. After all, I had met with clients confined to solitary in the state prisons numerous times and I had never had a client's hands so restricted. I urge every person on the Board to make sure they *see* all these methods of restriction in use. There is a very innate and real reaction which surfaces when you see a person constrained like this.

---

isolation and lack of access to re-entry services would affect New Yorkers any differently. Lauren Brinkley-Rubinstein, PhD et. al, *Association of Restrictive Housing During Incarceration With Mortality After Release*, JAMA Network Open, October 4, 2019 *last accessed November 27, 2019 at* https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2752350.

This also makes it incredibly difficult for a client to engage in any form of re-entry services. Clients often feel defensive, and emotional when they come in like this. It can be hard for them to focus on what I am saying when they are left in what is not only a physically vulnerable position but also a very psychologically challenging one. I have found we must address this situation before we can truly resolve other concerns such as getting IDs, changing names, or preventing evictions.

Even then, the effects of their restrictive status linger as the Department frequently does not want to abide by confidentiality. They routinely insist that I am not allowed to close the door when I am meeting with a client coming from any form of restrictive housing. A Captain is making direct eye contact at all times with my client. Anytime a client needs to sign a form I must ask for their hands to be un-cuffed.

The Department Must invest in Skills, not Chains

I have been physically present when incarcerated people have been rounded up by Special Response Teams, chemically sprayed, and placed in confinement. I have previously testified about this to the Board. It is clear that in response to almost any behavior force and isolation are used as the default response to any security or behavioral challenge. It is imperative that we move more towards a restorative and empathetic approach then to a punitive one, but to do so we must invest in the skills and knowledges of all those who work with folks on the inside.

I want to end by thanking the Board for the time and commitment to this important issue and to seriously consider the reality that restrictive housing – in any name – causes more long-term harm then any immediate safety alleviation it potentially brings. Others I know will discuss the well-documented realities of mental and medical health harm. It should also be taken into consideration that people placed in restrictive housing come home. They come home to be my neighbor and your neighbor. Bringing home a whole person, connected to care and not fighting through debilitating medical and mental health conditions that are wholly avoidable should be everyone's goal. I see no way in which continued use of restrictive housing brings us closer to a better New York.

Sincerely,

Mik Kinkead, Esq.
Rikers Island Civil Re-Entry Project
The Legal Aid Society - Civil Practice
260 East 161st Street, 7th Floor
Bronx, New York 10451
T: 929-288-4514
mkinkead@legal-aid.org