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May 29, 2013

Cathy Potler, Esq., Executive Director
New York City Board of Correction
51 Chambers Street, Room 923
New York, New York 10007

Dear Ms. Potler:

On behalf of the Committees on International Human Rights and on Corrections & Community Reentry of the New York City Bar Association, we write to urge the New York City Board of Correction (the “Board”) to initiate rulemaking in connection with a petition submitted to the Board for the adoption of rules regarding the use of isolated confinement in New York City Department of Correction facilities. The petition requests that the Board add a Chapter 5 to its Minimum Standards (codified at Chapter 1 of Title 40 of the Rules of the City of New York), entitled “Isolated Confinement Minimum Standards.”¹

The Association is an independent, non-governmental organization of 24,000 lawyers, law professors, and government officials from the United States and 50 other countries. Throughout its 143-year history, the Association has consistently maintained that an independent judiciary and respect for the rule of law are essential to all jurisdictions. The conditions of

¹ The thirty-nine petitioners identified in the “Petition to New York City Board of Correction for Adoption of Rules Regarding the Use of Isolated Confinement” include civil rights and human rights attorneys, scholars, social workers, prisoners’ rights advocates, and former inmates.

confinement in jails and prisons, including the use of segregation for punitive and administrative purposes, are a matter of long-standing concern for the Association.²

The use of isolated confinement in jails and prisons is a matter of growing concern for the public at large and for those particularly involved in the oversight of correctional institutions. Greater scrutiny of the practice of solitary confinement was generated by a recent New York Civil Liberties Union report entitled *Boxed In: The True Cost of Extreme Isolation in New York's Prisons* ("Boxed In"). Soon thereafter, other organizations began to voice concerns about the adverse effects of isolated confinement. In March 2013, the United Nation's Special Rapporteur on Torture called on the Inter-American Commission on Human Rights on solitary confinement in the Americas to investigate the practice of solitary confinement and its harmful effects in the Americas.³ The New York State Bar Association also recently urged that New York State "profoundly restrict the use of long-term solitary confinement."⁴

In New York City, the issue of isolated confinement is particularly acute. The New York City Department of Correction (DOC) has increased the number of beds in its Central Punitive Segregation Unit (CPSU) from 752 beds in 2010 to a projected 1,215 beds this year.⁵ This amounts to approximately ten percent of the average daily inmate population.⁶ The Board's Minimum Standards do not currently include any rules that would limit the use of isolated confinement, or exclude vulnerable populations such as young people and people with disabilities, and they do not provide any due-process protections to supplement the very minimal hearing process provided by the DOC. The need for some such standards to govern this growing proportion of the DOC population seems evident. At the very least, the Board should begin a discussion about the imposition of such standards.

² See, e.g., Report, *Supermax Confinement in U.S.*, COMMITTEE ON INT'L HUMAN RIGHTS, BAR ASS'N OF THE CITY OF NEW YORK (2010); *Comments On Board Of Correction Proposed Amendments to Minimum Standards For New York City Correctional Facilities*, COMMITTEE ON CORRECTIONS & COMMUNITY REENTRY, BAR ASS'N OF THE CITY OF NEW YORK (2007).

³ See "UN Special Rapporteur on torture warns about abuse of solitary confinement in the Americas," United Nations Human Rights, Office of the High Commissioner for Human Rights, *available at* <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=13134&LangID=E>.

⁴ New York State Bar Association Civil Rights Committee, Report to House of Delegates (January 2013), *available at* <http://www.nysba.org/Content/NavigationMenu42/January252013HouseofDelegatesMeetingAgendaItems/CivilRightsReportreSolitaryConfinement.pdf>.

⁵ New York City Department of Correction, Punitive Segregation: Frequently Asked Questions 2 (2012), *available at* http://www.nyc.gov/html/doc/html/news/041312_PUNITIVE_SEGREGATION.pdf. While DOC Commissioner Dora Schriro testified on April 4, 2013, at a hearing of the Committee on Fire and Criminal Justice Services of the New York City Council that the DOC has "closed some of" the beds in the CPSU, *see* http://www.nyc.gov/html/doc/html/events/City_Council_Budget_Hearing_Statement_April_4_2013.pdf, the current number of DOC inmates in solitary confinement is not made public.

⁶ See New York City Department of Correction, DOC Statistics, *available at* http://www.nyc.gov/html/doc/html/stats/doc_stats.shtml.

Because of the profound public importance of the use of isolated confinement and the critical nature of the use of isolated confinement in New York City, we encourage the Board to initiate rulemaking in accordance with the requirements of Section 1043 of the New York City Charter. Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Sara Manaugh', with a stylized flourish at the end.

Sara Manaugh
Chair, Committee on Corrections and Community Reentry

A handwritten signature in black ink, appearing to read 'Elisabeth Wickeri', with a stylized flourish at the end.

Elisabeth Wickeri
Chair, Committee on International Human Rights