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**Testimony by the New York City Bar Association, Corrections and
Community Reentry Committee**

June 9, 2015 Board of Correction Meeting

The New York City Bar Association's Corrections and Community Reentry Committee would like to make a brief statement regarding the Department of Correction's proposed rule. We are an association of attorneys and legal professionals who come from a range of private, governmental and non-profit work backgrounds. We volunteer our time to this committee because we care about the people who live and work in the correctional institutions of this city.

The rule proposed by the Department of Correction on May 26, 2015 changes the minimum standards for, among other things, visitation, Enhanced Supervision Housing, and punitive segregation. Our immediate concern about this proposed rule is that it is a major, unprecedented change to the minimum standards. Until now, individuals at Rikers could meet with their friends and loved ones, hold hands, and hug – unless there was a specific showing that the visitor might introduce contraband.

Visitation is the subject of a minimum standard because it is an important element in both violence reduction and successful reentry. The proposal fundamentally alters the scope and substance of the visitation standard, and even the Board's role in protecting this important right.

Despite this major change, the proposal is missing the specifics of the who, when, where, and how:

- Who will decide that a particular visitor is denied access?
- When will that decision be made? And where? On computers before the visit or once the visitor has traveled to Rikers?
- How will this plan work to avoid arbitrary denials?

These questions should be answered before the rule is considered, not during the comment period.

Vagueness is just one concern. The DOC has also failed to provide the necessary information to assess whether this rule is needed, such as:

- What percentage of contact visits result in weapons smuggled into the jails?
- What efforts have been made to prevent weapon smuggling without impeding the right to contact visits; and
- What alternatives exist for altering visiting procedures without restricting contact visitation?

Without this information, it is premature to consider significantly limiting the right of the vast majority of incarcerated people and their families to maintain meaningful contact.

The rule also proposes eliminating placement review hearings for some individuals in Enhanced Supervision Housing, even though this housing unit just started operating a few months ago. And while the DOC rightly highlights its reductions in the use of solitary confinement for juveniles and young adults, the proposed rule actually expands the time an adult can spend in punitive segregation, changing another recently enacted process.

The record is inadequate to justify these revisions.

The DOC does not address what has been done to reintegrate people leaving solitary confinement back into the general jail population. It reports that there have been a “small number” of people involved in “violent incidents” soon after their release from solitary confinement. But, again, there are unanswered questions: Has the DOC considered creating programs to address any disruptive behavior? Has it considered using the Enhanced Supervision Housing units as an alternative to punitive segregation?

Because the punitive segregation and ESH rules are so new, experience with them is minimal. It is unreasonable to abandon these new rules so soon, without exploring alternatives.

For these reasons, we respectfully suggest that the Board reject this proposed rule or, at a minimum, slow the pace of this rule-making process. The Board should request that the DOC provide more substance and detail about how this rule would work and provide more time for stakeholders, such as our committee, to digest the proposal and provide more meaningful feedback.