



**BOARD OF CORRECTION
CITY OF NEW YORK**

**RESOLUTION OF THE BOARD OF CORRECTION
NOVEMBER 9, 2021 PUBLIC MEETING**

WHEREAS, on June 9, 2021, pursuant to its authority under Section 626(e) of the New York City Charter (the Charter), the Board approved rules (the RMAS Rules) prohibiting the Department of Correction (the Department) from using the system of solitary confinement known as “punitive segregation” and requiring the Department to implement the Risk Management and Accountability System (RMAS), a form of restrictive housing that provided for fairness and accountability, by, among things, increasing out of cell time, reducing the amount of time people in custody could be held in restrictive housing, eliminating the use of shackling known as “desk restraints” and providing for attorney representation for persons subject to the use and possible use of RMAS;

WHEREAS, the policy animating the Board’s decision to end the use of solitary confinement is set forth in Minimum Standard Section 6-07 (a) as follows: “Punitive segregation, also known as PSEG or solitary confinement, imposes significant risks of psychological and physical harm on people in custody. These risks are intensified for those with pre-existing mental illness or medical conditions and young adults. The risk of self-harm and potentially fatal self-harm is also strongly associated with solitary confinement. The hallmarks of solitary confinement — social deprivation and enforced idleness — create these serious health risks and are antithetical to the goals of social integration and positive behavioral change;”

WHEREAS, the RMAS Rules required the Department to end the practice of punitive segregation on November 1, 2021 and implement RMAS;

WHEREAS, the Department failed to implement the RMAS rules by November 1, 2021;

WHEREAS, having been denied a number of variances at the Board’s September Public Board meeting, the Department did not seek to apply to the Board for variances to delay or modify implementation of some or all of the RMAS rules;

WHEREAS, on November 1, 2021, Mayor Bill de Blasio instead signed Emergency Executive Order 279, which suspended several of the Board’s Minimum Standards, including Section 102 (b) (1, 3 & 4) (prohibiting commingling of young adult and adult populations, including in ESH); Section 1-05 (limiting involuntary lock-in); Section 1-08 (f) (allowing access to law library); and Section 6-24 (creating due process and

procedural justice protections for persons in custody), and effectively suspended the implementation of the RMAS Rules, thus allowing the continued use of solitary confinement;

WHEREAS, the use of emergency executive orders to circumvent the Board's rules, rather than targeted, temporary modifications to the Board's rules through the variance process undermines the Board's authority to fulfill its Charter mission as an independent agency providing regulatory oversight of the Department and the Correctional Health Services;

WHEREAS, any weakening of the Board's authority represents a limitation of the rights of people in custody to humane, non-arbitrary treatment, which poses a serious risk to the safety, health and wellbeing of people in custody and Department and CHS staff;

NOW, THEREFORE, BE IT RESOLVED that the Board condemns the failure of the Department to seek a variance from the RMAS Rules through the Charter-mandated process;

IT IS FURTHER RESOLVED that the Board condemns the use of emergency executive orders to circumvent the Charter-mandated process for seeking variances from Board rules; and

IT IS FURTHER AND FINALLY RESOLVED that a copy of this resolution be posted on the Board website and sent to the mayor, speaker, presiding justices of First and Second Departments of the Appellate Division, the President of NYC Health+Hospitals and the New York City Commissioner of Correction.

At the Board's public meeting on November 9, 2021, the Board voted to approve the Resolution by a vote of 5 in favor and 0 in opposition.