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THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N. Y. 10007

January 19, 2024

Michael McSweeney  
City Clerk of the Council  
141 Worth Street  
New York, NY 10013

Dear Mr. McSweeney:

Transmitted herewith is the bill disapproved by the Mayor. The bill is as follows:

**Int. 549-A** – A Local Law to amend the administrative code of the city of New York, in relation to banning solitary confinement in city jails and establishing standards for the use of restrictive housing and emergency lock-ins.

Sincerely,

A handwritten signature in black ink, appearing to read "Connor Martinez".

Connor Martinez  
Director of City Legislative Affairs

cc: Honorable Adrienne E. Adams



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Hon. Michael McSweeney  
City Clerk and Clerk of the Council  
141 Worth Street  
New York, NY 10013

Dear Mr. McSweeney,

Pursuant to Section 37 of the New York City Charter, I hereby disapprove Introductory Number 549-A, which would amend the Administrative Code of the City of New York “in relation to banning solitary confinement in city jails and establishing standards for the use of restrictive housing and emergency lock-ins.” Introductory Number 549-A would replace sound correctional practices with a series of misguided mandates governing the management of persons who commit serious acts of violence while in custody. In doing so, it would make the City’s jails less safe in several important ways.

Although the title of Introductory Number 549-A states that it relates to prohibiting solitary confinement (which is generally understood to mean holding an individual in a jail cell for 22 or more hours a day without meaningful human contact), that is *not* what Introductory Number 549-A is about. Solitary confinement was already eliminated from New York City jails in 2019. Rather, Introductory Number 549-A would establish far-reaching restrictions on the operations of the Department of Correction (DOC) that would increase the risk of harm to incarcerated persons in the City’s custody and to the City’s correctional staff as follows:

First, Introductory Number 549-A would undermine the restrictive housing program developed in consultation with the Federal Monitor which, pursuant to a court order issued in *Nunez v. City of New York*, 11 CV 5845 (SDNY), will require such Monitor’s approval. Currently, persons placed in restrictive housing after committing a violent act—for instance, stabbing another individual or assaulting staff—are allowed out of cell in a congregate setting for seven hours a day. But Introductory Number 549-A requires that persons placed in a restrictive housing unit after committing a violent act must be out of cell 14 hours a day, the same as for general population, and must be given access to programming and amenities greater than those available to general population, purportedly “to encourage good behavior.” In other words, Introductory Number 549-

A eliminates any negative consequences for those who commit violent acts on other persons or on staff. To make matters worse, Introductory Number 549-A requires that placement in restrictive housing for persons in custody be reduced from the current 60 days to 15 days unless a person engages in conduct that presents an “imminent” threat of harm to themselves or others during that time. The notion that 15 days of programming, no matter how skilled the counselor, is sufficient to effect meaningful change in a person with a known propensity for serious violence is not supported by evidence or experience. Change takes time and commitment, and 15 days is barely enough to get started.

Second, Introductory Number 549-A would make escorting and transporting persons in custody far more dangerous by disallowing the use of restraints on individuals 22 years of age or older during transportation to and from court or elsewhere outside the Department’s facilities absent an individualized determination that restraints are necessary to prevent an “imminent risk” of injury. Illustrating the lack of coherence that characterizes the bill, for reasons not explained, and perhaps reflecting an inadvertent error, Introductory Number 549-A would permit restraints for those under 22 during transportation but not for those 22 or over. Each day, DOC sends 500 or more people in custody—25 or more buses with 20 or more persons on each bus—to courts in the five boroughs. As many as a third of those persons face homicide charges. Currently, persons are restrained—typically two persons are handcuffed together—for the safety of other persons in custody and DOC staff. A prohibition on restraining persons during transportation would lead to chaos. Police officers, after all, do not transport even one arrestee without restraint, let alone 20.

Third, Introductory Number 549-A removes DOC’s necessary discretion in conducting “lock-downs”—periods when, for everyone’s safety, incarcerated persons are held in their cells following a disturbance in a housing unit. Introductory Number 549-A establishes a fixed limit of four hours on lock-downs. While most such disturbances can be resolved in four hours or less, some inevitably require more time to investigate and restore order. An inflexible four-hour rule is not sound correctional policy. Introductory Number 549-A also requires persons to have telephone access during emergency lock-ins, even if that would enable violence, including gang violence. This requirement is also poor correctional policy. If two gangs clash in a housing unit, a person with access to a telephone could communicate with fellow gang members in other units (by calling a friend who is not incarcerated and conferencing in gang members who are incarcerated), and violence could easily spread.

Tellingly, the Federal Monitor, appointed under the *Nunez* consent decree and tasked with approving restrictive housing policy, has provided an assessment stating that, if Introductory Number 549-A were implemented, “in all likelihood, [it] would create or exacerbate the unsafe conditions” in New York City jails. The Monitor is clear about the heightened safety risks to people who work and live in Rikers created by this bill:

Council Bill 549-A includes absolute prohibitions in areas where at least some discretion is necessary, contains requirements that are both vague and ambiguous, contains multiple internal inconsistencies, and sets standards that are not consistent with sound correctional practice. These issues directly impact various Department policies and procedures addressed by the [Federal] Court Orders and which require the Monitor’s approval. . . . The Monitor will not approve policies and procedures

that include the problematic requirements [in 549-A] because they do not reflect sound correctional practice and would further exacerbate the extant unsafe conditions. Consequently, the Monitoring Team must reiterate its concern that the bill's requirements . . . will create situations that will impair, if not prevent, the Department from being able to comply with the [Federal] Court Orders.

Monitor's Assessment dated January 12, 2024, at 10; *see also* Assessment at 11 (Introductory Number 549-A "will intensify the risk of harm to both persons in custody and Department staff"). The Monitor speaks from decades of experience in corrections and with a mandate to assist New York City to improve safety conditions for persons in custody and staff. The assessment strengthens the Administration's view that the effects of Introductory Number 549-A would be dangerous.

Accordingly, I hereby disapprove Introductory Number 549-A.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Adams", with a long horizontal flourish extending to the right.

Eric Adams  
Mayor

Cc: Hon. Adrienne Adams

By the Public Advocate (Mr. Williams) and Council Members Rivera, Cabán, Hudson, Won, Restler, Hanif, Avilés, Nurse, Sanchez, Narcisse, Krishnan, Abreu, Louis, Farías, De La Rosa, Ung, Ossé, Gutiérrez, Richardson Jordan, Joseph, Brannan, Menin, Schulman, Barron, Moya, Williams, Powers, Marte, Stevens, Brooks-Powers, Bottcher, Dinowitz, Ayala, Riley, Feliz, Brewer and The Speaker (Council Member Adams) (by request of the Brooklyn Borough President)

A Local Law to amend the administrative code of the city of New York, in relation to banning solitary confinement in city jails and establishing standards for the use of restrictive housing and emergency lock-ins

Be it enacted by the Council as follows:

1           Section 1. Chapter 1 of title 9 of the administrative code is amended by adding a new  
2 section 9-167 to read as follows:

3           § 9-167 Solitary confinement. a. Definitions. For the purposes of this section, the following  
4 terms have the following meanings:

5           Advocate. The term “advocate” means a person who is a law student, paralegal, or an  
6 incarcerated person.

7           Cell. The term “cell” means any room, area or space that is not a shared space conducive  
8 to meaningful, regular and congregate social interaction among many people in a group setting,  
9 where an individual is held for any purpose.

10           De-escalation confinement. The term “de-escalation confinement” means holding an  
11 incarcerated person in a cell immediately following an incident where the person has caused  
12 physical injury or poses a specific risk of imminent serious physical injury to staff, themselves or  
13 other incarcerated persons.

14           Emergency lock-in. The term “emergency lock-in” means a department-wide emergency  
15 lock-in, a facility emergency lock-in, a housing area emergency lock-in, or a partial facility  
16 emergency lock-in as defined in section 9-155.

1 Out-of-cell. The term “out-of-cell” means being in a space outside of, and in an area away  
2 from a cell, in a group setting with other people all in the same shared space without physical  
3 barriers separating such people that is conducive to meaningful and regular social interaction and  
4 activity or being in any space during the time of carrying out medical treatment, individual one-  
5 on-one counseling, an attorney visit or court appearance.

6 Pre-hearing temporary restrictive housing. The term “pre-hearing temporary restrictive  
7 housing” means any restrictive housing designated for incarcerated persons who continue to pose  
8 a specific risk of imminent serious physical injury to staff, themselves, or other incarcerated  
9 persons after a period of de-escalation confinement has exceeded time limits established by this  
10 section and prior to a hearing for recommended placement in restrictive housing has taken place.

11 Restraints. For the purposes of this section, the term “restraints” means any object, device  
12 or equipment that impedes movement of hands, legs, or any other part of the body.

13 Restrictive housing. The term “restrictive housing” means any housing area that separates  
14 incarcerated persons from the general jail population on the basis of security concerns or discipline,  
15 or a housing area that poses restrictions on programs, services, interactions with other incarcerated  
16 persons or other conditions of confinement. This definition excludes housing designated for  
17 incarcerated persons who are: (1) in need of medical or mental health support as determined by  
18 the entity providing or overseeing correctional medical and mental health, including placement in  
19 a contagious disease unit, (2) transgender or gender non-conforming, (3) in need of voluntary  
20 protective custody, or (4) housed in a designated location for the purpose of school attendance.

21 Solitary confinement. The term “solitary confinement” means any placement of an  
22 incarcerated person in a cell, other than at night for sleeping for a period not to exceed eight hours  
23 in any 24-hour period or during the day for a count not to exceed two hours in any 24-hour period.

1 Suicide prevention aide. For the purposes of this section, the term “suicide prevention aide”  
2 means a person in custody who has been trained to identify unusual and/or suicidal behavior.

3 Violent grade I offense. The term “violent grade I offense” shall have the same meaning as  
4 defined by the rules of the department of correction as of January 1, 2022.

5 b. Ban on solitary confinement. The department shall not place an incarcerated person in a  
6 cell, other than at night for sleeping for a period not to exceed eight hours in any 24-hour period  
7 or during the day for count not to exceed two hours in any 24-hour period, unless for the purpose  
8 of de-escalation confinement or during emergency lock-ins.

9 c. De-escalation confinement. The department’s uses of de-escalation confinement shall  
10 comply with the following provisions:

11 1. De-escalation confinement shall not be located in intake areas and shall not take place  
12 in decontamination showers. Spaces used for de-escalation confinement must, at a minimum, have  
13 the features specified in sections 1-03 and 1-04 of title 40 of the rules of the city of New York and  
14 be maintained in accordance with the personal hygiene and space requirements set forth in such  
15 sections;

16 2. Department staff must regularly monitor a person in de-escalation confinement and  
17 engage in continuous crisis intervention and de-escalation to support the person’s health and well-  
18 being, attempt de-escalation, work toward a person’s release from de-escalation confinement and  
19 determine whether it is necessary to continue to hold such person in such confinement;

20 3. The department shall conduct visual and aural observation of each person in de-  
21 escalation confinement every 15 minutes, shall refer any health concerns to medical or mental  
22 health staff, and shall bring any person displaying any indications of any need for medical  
23 documentation, observation, or treatment to the medical clinic. Suicide prevention aides may

1 conduct check-ins with a person in de-escalation confinement at least every 15 minutes and refer  
2 any health concerns to department staff who will get medical or mental health staff to treat any  
3 reported immediate health needs. No suicide prevention aide shall face any retaliation or other  
4 harm for carrying out their role;

5 4. Throughout de-escalation confinement, a person shall have access to a tablet or device  
6 that allows such person to make phone calls outside of the facility and to medical staff in the  
7 facility;

8 5. A person shall be removed from de-escalation confinement immediately following when  
9 such person has sufficiently gained control and no longer poses a significant risk of imminent  
10 serious physical injury to themselves or others;

11 6. The maximum duration a person can be held in de-escalation confinement shall not  
12 exceed four hours immediately following the incident precipitating such person's placement in  
13 such confinement. Under no circumstances may the department place a person in de-escalation  
14 confinement for more than four hours total in any 24-hour period, or more than 12 hours in any  
15 seven-day period; and

16 7. In circumstances permitted in subdivision g of this section, the department may transfer  
17 a person from de-escalation confinement to pre-hearing temporary restrictive housing.

18 (a) The department shall not place any incarcerated person in a locked decontamination  
19 shower nor in any other locked space in any facility that does not have, at a minimum, the features  
20 specified in sections 1-03 and 1-04 of title 40 of the rules of the city of New York and maintained  
21 in accordance with the personal hygiene and space requirements as set forth in such sections.

22 (b) The department shall not maintain any locked decontamination showers. Any other  
23 locked spaces in any facility for holding incarcerated people must at least have the features



1 specified in and maintained in accordance with the personal hygiene and space requirements set  
2 forth in 40 RCNY § 1-03 and § 1-04.

3 d. Reporting on de-escalation confinement. For each instance an incarcerated person is  
4 placed in de-escalation confinement as described in subdivision c of this section, the department  
5 shall prepare an incident report that includes a detailed description of why isolation was necessary  
6 to de-escalate an immediate conflict and the length of time the incarcerated person was placed in  
7 such confinement. Beginning on July 15, 2024, and within 15 days of the end of each subsequent  
8 quarter, the department shall provide the speaker of the council and the board of correction all such  
9 reports for the preceding quarter and post all such reports on the department's website. The  
10 department shall redact all personally identifying information prior to posting such reports on the  
11 department's website. Beginning July 31, 2024, and within 30 days of the end of each subsequent  
12 quarter, the department shall provide to the speaker of the council and the board of correction, and  
13 post on the department's website, a report with data for the preceding quarter on the total number  
14 of people placed in such confinement, disaggregated by race, age, gender identity and mental  
15 health treatment level, as well as the total number of people held in such confinement  
16 disaggregated by whether confinement lasted less than one hour, between one and two hours,  
17 between two and three hours, and between three and four hours.

18 e. Use of restraints. 1. The department shall not place an incarcerated person in restraints  
19 unless an individualized determination is made that restraints are necessary to prevent an imminent  
20 risk of self-injury or injury to other persons. In such instances, only the least restrictive form of  
21 restraints may be used and may be used no longer than is necessary to abate such imminent harm.  
22 Restraints shall not be used on an incarcerated person under the age of 22 except in the following  
23 circumstances: (i) during transportation in and out of a facility, provided that during transportation

1 no person shall be secured to an immovable object; and (ii) during escorted movement within a  
2 facility to and from out-of-cell activities where an individualized determination is made that  
3 restraints are necessary to prevent an immediate risk of self-injury or injury to other persons. The  
4 department is prohibited from engaging in attempts to unnecessarily prolong, delay or undermine  
5 an individual's escorted movements.

6 2. The department shall not place an incarcerated person in restraints beyond the use of  
7 restraints described in paragraph 1 of this subdivision, or on two consecutive days, until a hearing  
8 is held to determine if the continued use of restraints is necessary for the safety of others. Such  
9 hearing shall comply with the rules of the board of correction as described in paragraph 1 of  
10 subdivision f of this section. Any continued use of restraints must be reviewed by the department  
11 on a daily basis and discontinued once there is no longer an imminent risk of self-injury or injury  
12 to other persons. Continued use of restraints may only be authorized for seven consecutive days.

13 f. Restrictive housing hearing. Except as provided in subdivision g of this section, the  
14 department shall not place an incarcerated person in restrictive housing until a hearing on such  
15 placement is held and the person is found to have committed a violent grade I offense. Any required  
16 hearing regarding placement of a person into restrictive housing shall comply with rules to be  
17 established by the board of correction.

18 1. The board of correction shall establish rules for restrictive housing hearings that shall,  
19 at a minimum, include the following provisions:

20 (i) An incarcerated person shall have the right to be represented by their legal counsel or  
21 advocate;

22 (ii) An incarcerated person shall have the right to present evidence and cross-examine  
23 witnesses;

1 (iii) Witnesses shall testify in person at the hearing unless the witnesses' presence would  
2 jeopardize the safety of themselves or others or security of the facility. If a witness is excluded  
3 from testifying in person, the basis for the exclusion shall be documented in the hearing record;

4 (iv) If a witness refuses to provide testimony at the hearing, the department must provide  
5 the basis for the witness's refusal, videotape such refusal, or obtain a signed refusal form, to be  
6 included as part of the hearing record;

7 (v) The department shall provide the incarcerated person and their legal counsel or  
8 advocate written notice of the reason for proposed placement in restrictive housing and any  
9 supporting evidence for such placement, no later than 48 hours prior to the restrictive housing  
10 hearing;

11 (vi) The department shall provide the legal counsel or advocate adequate time to prepare  
12 for such hearings and shall grant reasonable requests for adjournments;

13 (vii) An incarcerated person shall have the right to an interpreter in their native language if  
14 the person does not understand or is unable to communicate in English. The department shall take  
15 reasonable steps to provide such interpreter;

16 (viii) A refusal by an incarcerated person to attend any restrictive housing hearings must  
17 be videotaped and made part of the hearing record;

18 (ix) If the incarcerated person is excluded or removed from a restrictive housing hearing  
19 because it is determined that such person's presence will jeopardize the safety of themselves or  
20 others or security of the facility, the basis for such exclusion must be documented in the hearing  
21 record;

22 (x) A restrictive housing disposition shall be reached within five business days after the  
23 conclusion of the hearing. Such disposition must be supported by substantial evidence, shall be

1 documented in writing, and must contain the following information: a finding of guilty or not  
2 guilty, a summary of each witness's testimony and whether their testimony was credited or rejected  
3 with the reasons thereof, the evidence relied upon by the hearing officer in reaching their finding,  
4 and the sanction imposed, if any; and

5 (xi) A written copy of the hearing disposition shall be provided to the incarcerated person  
6 and their counsel or advocate within 24 hours of the determination.

7 2. Failure to comply with any of the provisions described in paragraph 1 of this subdivision,  
8 or as established by board of correction rule, shall constitute a due process violation warranting  
9 dismissal of the matter that led to the hearing.

10 g. Pre-hearing temporary restrictive housing. In exceptional circumstances, the department  
11 may place a person in pre-hearing temporary restrictive housing prior to conducting a restrictive  
12 housing hearing as required by subdivision f of this section.

13 1. Such placement shall only occur upon written approval of the Commissioner or a Deputy  
14 Commissioner, or another equivalent member of department senior leadership over the operations  
15 of security. Such written approval shall include: the basis for a reasonable belief that the  
16 incarcerated person has committed a violent grade I offense, and whether such person has caused  
17 serious physical injury or poses a specific and significant risk of imminent serious physical injury  
18 to staff or other incarcerated persons.

19 2. A restrictive housing hearing shall occur as soon as reasonably practicable following  
20 placement in pre-hearing temporary restrictive housing, and must occur within five days of such  
21 placement, unless the person placed in such restrictive housing seeks a postponement of such  
22 hearing.

1           3. If a person is found guilty at a restrictive housing hearing, time spent in pre-hearing  
2 temporary restrictive housing prior to such hearing determination shall be deducted from any  
3 sentence of restrictive housing and such time shall count toward the time limits in restrictive  
4 housing.

5           4. Pre-hearing temporary restrictive housing shall comply with all requirements for  
6 restrictive housing, including but not limited to those established in subdivision h of this section.

7           5. During the first day of placement in pre-hearing temporary restrictive housing,  
8 department staff must regularly monitor the person and engage in continuous crisis intervention  
9 and attempt de-escalation, work toward a person's release from pre-hearing temporary restrictive  
10 housing and determine whether it is necessary to continue to hold the person in pre-hearing  
11 temporary restrictive housing.

12           h. Restrictive housing regulations. The department's use of restrictive housing must  
13 comply with the following provisions:

14           1. The department shall not place an incarcerated person in restrictive housing for longer  
15 than necessary and for no more than a total of 60 days in any 12 month period.

16           2. Within 15 days of placement of an incarcerated person in restrictive housing, the  
17 department shall meaningfully review such placement to determine whether the incarcerated  
18 person continues to present a specific, significant and imminent threat to the safety and security of  
19 other persons if housed outside restrictive housing. If an individual is not discharged from  
20 restrictive housing after review, the department shall provide in writing to the incarcerated person:  
21 (i) the reasons for the determination that such person must remain in restrictive housing and (ii)  
22 any recommended program, treatment, service, or corrective action. The department shall provide  
23 the incarcerated person access to such available programs, treatment and services.

1           3. The department shall discharge an incarcerated person from restrictive housing if such  
2 person has not engaged in behavior that presents a specific, significant, and imminent threat to the  
3 safety and security of themselves or other persons during the preceding 15 days. In all  
4 circumstances, the department shall discharge an incarcerated person from restrictive housing  
5 within 30 days after their initial placement in such housing.

6           4. A person placed in restrictive housing must have interaction with other people and access  
7 to congregate programming and amenities comparable to those housed outside restrictive housing,  
8 including access to at least seven hours per day of out-of-cell congregate programming or activities  
9 with groups of people in a group setting all in the same shared space without physical barriers  
10 separating such people that is conducive to meaningful and regular social interaction. If a person  
11 voluntarily chooses not to participate in congregate programming, they shall be offered access to  
12 comparable individual programming. A decision to voluntarily decline to participate in congregate  
13 programming must be done in writing or by videotape.

14           5. The department shall utilize programming that addresses the unique needs of those in  
15 restrictive housing. The department shall provide persons in restrictive housing with access to core  
16 educational and other programming comparable to core programs in the general population. The  
17 department shall also provide persons in restrictive housing access to evidence-based therapeutic  
18 interventions and restorative justice programs aimed at addressing the conduct resulting in their  
19 placement in restrictive housing. Such programs shall be individualized and trauma-informed,  
20 include positive incentive behavior modification models, and follow best practices for violence  
21 interruption. Staff that routinely interact with incarcerated persons must be trained in de-escalation  
22 techniques, conflict resolution, the use of force policy, and related topics to address the unique  
23 needs of those in restrictive housing units.

1           6. The department shall use positive incentives to encourage good behavior in restrictive  
2 housing units and may use disciplinary sanctions only as a last resort in response to behavior  
3 presenting a serious and evident danger to oneself or others after other measures have not alleviated  
4 such behavior.

5           7. All housing for medical or mental health support provided to persons recommended to  
6 receive such support by the entity providing and/or overseeing correctional medical and mental  
7 health, including placement in contagious disease units, housing for people who are transgender  
8 or gender non-conforming, housing for voluntary protective custody, and housing for purposes of  
9 school attendance, shall comply with subdivisions (b), (c), (e), (i), (j) and (k) of this section and  
10 paragraphs 4, 5, and 6 of this subdivision.

11           8. For purposes of contagious disease units, after a referral from health care staff, a person  
12 may be held in a medical unit overseen by health care staff, for as limited a time as medically  
13 necessary as exclusively determined by health care staff, in the least restrictive environment that  
14 is medically appropriate. Individuals in a contagious disease unit must have comparable access as  
15 individuals incarcerated in the general population to phone calls, emails, visits, and programming  
16 done in a manner consistent with the medical and mental health treatment being received, such as  
17 at a physical distance determined appropriate by medical or mental health staff. Such access must  
18 be comparable to access provided to persons incarcerated outside of restrictive housing units.

19           9. Reporting on restrictive housing. For each instance a disciplinary charge that could result  
20 in restrictive housing is dismissed or an incarcerated individual is found not guilty of the  
21 disciplinary charge, the department shall prepare an incident report that includes a description of  
22 the disciplinary charge and the reasons for the dismissal or not guilty determination. For each  
23 instance an incarcerated person is placed in restrictive housing, the department shall prepare an

1 incident report that includes a detailed description of the behavior that resulted in placement in  
2 restrictive housing and why restrictive housing was necessary to address such behavior, including  
3 if a person was placed in pre-hearing temporary restrictive housing and the reasons why the  
4 situation met the requirements in paragraph 1 of subdivision g of this section. For each instance in  
5 which confinement in restrictive housing is continued after a 15-day review of an incarcerated  
6 person's placement in restrictive housing, the department shall prepare an incident report as to why  
7 the person was not discharged, including a detailed description of how the person continued to  
8 present a specific, significant and imminent threat to the safety and security of the facility if housed  
9 outside restrictive housing and what program, treatment, service, and/or corrective action was  
10 required before discharge. Beginning on July 15, 2024, and within 15 days of the end of each  
11 subsequent quarter, the department shall provide the speaker of the council and the board of  
12 correction all such reports for the prior quarter and post all such reports on the department's  
13 website. The department shall redact all personally identifying information prior to posting the  
14 reports on the department's website. Beginning July 31, 2024, and within 30 days of the end of  
15 each subsequent quarter, the department shall provide to the speaker of the council and the board  
16 of correction, and post on the department's website, a report with data for the preceding quarter on  
17 the total number of people placed in restrictive housing during that time period, disaggregated by  
18 race, age, gender identity, mental health treatment level and length of time in restrictive housing,  
19 and data on all disposition outcomes of all restrictive housing hearing during such time period,  
20 disaggregated by charge, race, age, gender identity and mental health treatment level.

21 i. Out-of-cell time. 1. All incarcerated persons must have access to at least 14 out-of-cell  
22 hours every day except while in de-escalation confinement pursuant to subdivision c of this section  
23 and during emergency lock-ins pursuant to subdivision j of this section.



1           2. Incarcerated persons may congregate with others and move about their housing area  
2 freely during out-of-cell time and have access to education and programming pursuant to section  
3 9-110 of the administrative code.

4           j. Emergency lock-ins. 1. Emergency lock-ins may only be used when the Commissioner,  
5 a Deputy Commissioner, or another equivalent member of department senior leadership with  
6 responsibility for the operations of security for a facility determines that such lock-in is necessary  
7 to de-escalate an emergency that poses a threat of specific, significant and imminent harm to  
8 incarcerated persons or staff. Emergency lock-ins may only be used when there are no less  
9 restrictive means available to address an emergency circumstance and only as a last resort after  
10 exhausting less restrictive measures. Emergency lock-ins must be confined to as narrow an area as  
11 possible and limited number of people as possible. The department shall lift emergency lock-ins  
12 as quickly as possible. The Commissioner, a Deputy Commissioner, or another equivalent member  
13 of department senior leadership over the operations of security shall review such lock-ins at least  
14 every hour. Such lock-ins may not last more than four hours.

15           2. Throughout an emergency lock-in, the department shall conduct visual and aural  
16 observation of every person locked in every fifteen (15) minutes, shall refer any health concerns  
17 to medical or mental health staff, and shall bring any person displaying any indications of any need  
18 for medical documentation, observation, or treatment to the medical clinic. Throughout an  
19 emergency lock-in, other than in a department-wide emergency lock-in or a facility emergency  
20 lock-in, each person locked in shall have access to a tablet or other device that allows the person  
21 to make phone calls both outside of the facility and to medical staff in the facility.

1           3. The department shall immediately provide notice to the public on its website of an  
2 emergency lock-in, including information on any restrictions on visits, phone calls, counsel visits  
3 or court appearances.

4           4. For each instance an emergency lock-in is imposed, the department shall prepare an  
5 incident report that includes:

6           (a) A description of why the lock-in was necessary to investigate or de-escalate an  
7 emergency, including the ways in which it posed a threat of specific, significant and imminent  
8 harm;

9           (b) A description of how other less restrictive measures were exhausted;

10          (c) The number of people held in lock-in;

11          (d) The length of lock-in;

12          (e) The areas affected and the reasons such areas were subject to the emergency lock-in;

13          (f) The medical and mental health services affected, the number of scheduled medical and  
14 or mental health appointments missed and requests that were denied;

15          (g) Whether visits, counsel visits or court appearances were affected;

16          (h) What programs, if any, were affected;

17          (i) All actions taken during the lock-in to resolve and address the lock-in; and

18          (j) The number of staff diverted for the lock-in.

19          Beginning July 15, 2024, and within 15 days of the end of each subsequent quarter, the  
20 department shall provide the speaker of the council and the board of correction all such reports for  
21 the preceding quarter and shall post all such reports on the department's website with any  
22 identifying information redacted. Beginning July 15, 2024, and within 15 days of the end of each  
23 subsequent quarter, the department shall provide to the speaker of the council and the board of

1 correction a report on the total number of lock-ins occurring during the preceding quarter, the areas  
2 affected by each such lock-in, the length of each such lock-in and number of incarcerated people  
3 subject to each such lock-in, disaggregated by race, age, gender identity, mental health treatment  
4 level and length of time in cell confinement.

5 k. Incarcerated persons under the age of 22 shall receive access to trauma-informed, age-  
6 appropriate programming and services on a consistent, regular basis.

7 § 2. This local law takes effect 180 days after it becomes law. The board of correction shall  
8 take any actions necessary for the implementation of this local law, including the promulgation of  
9 rules relating to procedures and penalties necessary to effectuate this section before such date.

10 **I hereby certify that the above bill was passed by the Council of the City of  
Wednesday, December 20, 2023  
New York on .....receiving the following votes:**

**39**  
**Affirmative.....**  
**7**  
**Negative.....**  
**1**  
**Abstentions.....**

Session 12  
AM  
LS # 7797  
6/2/22

Session 11  
AM  
LS # 2666/2936/12523/12658/12676/12913  
Int. # 2173- 2020



**Michael M. McSweeney, City Clerk, Clerk of the Council.**

**DISAPPROVED**  
ON THE 19 DAY OF January 2024  
[Signature] MAYOR