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June 5, 2018

Honorable Andrew L. Carter, Jr.  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: Peoples v. Annucci, et al. (11 Civ. 2694)  
Annual Joint Report to Court

Dear Judge Carter:

Pursuant to the Settlement Agreement (“Agreement”) which took effect on April 1, 2016, the parties met in New York City on May 21, 2018, to discuss the second year of implementation. The parties discussed the comprehensive changes implemented by the Department of Corrections and Community Supervision (“DOCCS”) in Year 2, the objective impact of those changes on the SHU environment, as well as the tentative findings of NYCLU’s expert resulting from his recent tour of several facilities. The meeting and discussions were both positive and productive and are indicative of the parties’ joint efforts and ongoing commitment to advancing the Agreement’s objectives.

Some of the notable changes in Year 2 include the creation and commencement of several SHU-alternative programs which remove incarcerated individuals from SHU cells to less restrictive environments and provide them with programming, recreational and other activities intended to improve behavior, reduce future disciplinary infractions and prepare them for the transition back to the general population. In order to accommodate these programs, and reduce the number of individuals assigned to SHU cells, DOCCS has consolidated or converted more than 1,100 SHU cells for alternate use and expects to convert additional cells in the upcoming year.

Other notable changes include DOCCS’ adoption of new disciplinary policies which modified the sentencing guidelines and disaggregated certain charges to reduce the amount of time given for a confinement penalty for incidents occurring on or after April 1, 2017. The Department also provided guidance and instruction to review officers to charge incidents at the lowest

appropriate tier level and, although not required by the Agreement, DOCCS implemented an expedited appeal review for those individuals whose confinement sanctions are 60 days or less.

As a result of these, and other changes, DOCCS has reduced the number of incarcerated individuals serving a SHU sanction in a SHU cell by nearly 30% since April 2016. DOCCS has also achieved, in part, a:

- (1) 31% reduction in the number of incarcerated individuals serving a Keeplock sanction in a SHU cell;
- (2) 47% reduction in the number of incarcerated individuals age 21 and younger housed in a SHU cell;
- (3) 31% reduction in the average length of stay in a SHU cell; and
- (4) 72% reduction in the number of incarcerated individuals serving over 365 days in a SHU cell.<sup>1</sup>

The parties expect the positive trend to continue in Year 3 with the implementation of additional programs including the institution of the Lakeview Substance-Abuse Program.

As Your Honor may recall, the Settlement Agreement called for a pilot program to provide electronic tablets to people who are in SHU, giving them access to educational, recreational and entertainment materials including books and games. After seeing the positive impact of these tablets on the SHU environment, DOCCS now plans to provide tablets to all incarcerated individuals in SHU cells who are at or above Level 2 in the Progressive Inmate Management System (PIMS).<sup>2</sup> When fully implemented, these tablets will also offer people held in SHU the ability to make phone calls, resulting in greater access to the support that the parties agree is of particular importance to incarcerated individuals held in solitary confinement.

Based upon the foregoing, the parties agree that the Settlement Agreement continues to result in meaningful improvements in the experience of people held in SHU, and that the Agreement has to date resulted in a reduction in the use and duration of time spent in SHU. It is

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<sup>1</sup> The specific reductions reported in points 3 and 4 are DOCCS' calculations. The parties differ as to how to analyze data regarding length of stay in a SHU cell. The Plaintiffs' analysis suggests a lesser reduction than DOCCS' – specifically, Plaintiffs conclude that there has been a 20% reduction in the average length of stay in a SHU cell and a 52% reduction in the number of incarcerated individuals serving over a year in a SHU cell. Both parties agree, however, that there has been a meaningful reduction in the average lengths of stay since the final settlement agreement was implemented.

<sup>2</sup> PIMS is a behavioral incentive program that provides incarcerated individuals in special housing units with greater benefits and privileges that reduce isolation and improves SHU conditions.

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the parties' mutual desire for this trend to continue and to work together to sustain and build on these results. Given the parties' success in working together, the parties do not believe the Court's intervention is necessary at this time. Thank you for your time and consideration.

Respectfully submitted,

*/s/ Rebecca Ann Durden*

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