

**RACIALLY DISCRIMINATORY TREATMENT AND PUNISHMENT  
OF PRETRIAL DETAINED BLACK PERSONS IN THE CITY OF ST. LOUIS:  
WATER SHUTOFFS, EXCESSIVE USE OF CHEMICAL AGENTS, AND SOLITARY  
CONFINEMENT**

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**A Report Submitted to  
the Committee on the Elimination of Racial Discrimination  
in its 107<sup>th</sup> Session**

**United States' Compliance with the International  
Convention on the Elimination of All Forms of Racial Discrimination**

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Prepared and submitted by:

St. Louis University School of Law Human Rights at Home Litigation Clinic  
100 North Tucker Blvd. Ste. 704  
Saint Louis, MO 63101-1911  
Phone: (314) 977-2778  
[hrahlc@slu.edu](mailto:hrahlc@slu.edu)

Roderick & Solange MacArthur Justice Center  
906 Olive St #420  
St. Louis, MO 63101  
Phone: (314) 254-8540

Rights Behind Bars  
416 Florida Avenue NW, #26152  
Washington, DC 20001  
Phone: (202) 540-0029

ArchCity Defenders  
440 North 4<sup>th</sup> Street, Suite 390  
St. Louis, MO 63102  
Phone: (314) 361-8834

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## I. ABOUT THE AUTHORS

The St. Louis University School of Law Human Rights at Home Litigation Clinic focuses on securing fundamental human rights for the most vulnerable persons in the United States. Through both litigation and projects, SLU LAW students may get the chance to conduct interviews of clients and witnesses; provide legal advice and counseling to clients; draft pleadings; represent clients in court hearings; and interact with human rights legal systems, including U.N. Special Rapporteurs, U.N. Treaty Bodies, or the Inter-American Commission on Human Rights.

The Roderick and Solange MacArthur Justice Center (RSMJC) is a public interest law firm that advocates for human rights and social justice through litigation. RSMJC has offices at Illinois, Mississippi School of Law, in New Orleans, in St. Louis, and in Washington, D.C. The RSMJ Missouri office fights for civil rights in areas that include the humane treatment of incarcerated people, justice for the wrongfully convicted, supporting public defense, and safeguarding the right of protestors.

Rights Behind Bars (RBB) is a non-profit legal advocacy organization working alongside incarcerated people to challenge the cruel and inhumane conditions of confinement. RBB approaches trial litigation through a movement lawyering framework. This means that litigation is just one tool, among many, that RBB uses to achieve the goals of the clients and movements they serve. RBB seeks to pair innovative trial litigation with public advocacy, education, media and organizing strategies to ensure that RBB's work has a broader and more sustainable scope than what would be achievable through litigation alone.

ArchCity Defenders (ACD) is a holistic legal advocacy organization that combats the criminalization of poverty and state violence, especially in communities of color. ACD's foundation of civil and criminal legal representation, social services, impact litigation, policy and media advocacy, and community collaboration achieves and inspires justice and equitable outcomes for people throughout the St. Louis region and beyond.

## II. EXECUTIVE SUMMARY

The excessive use of chemical agents, water deprivation, and solitary confinement are punitive tactics regularly used against pre-trial detainees held in City of St. Louis jails. These torturous punishments are used on a daily basis without adequate justification on detainees in the City of St. Louis, who are predominately Black. These practices violate detainees' rights to non-discrimination under the International Convention on the Elimination of Racial Discrimination (CERD). Black persons make up only 13.40% of the U.S. population, while accounting for nearly 40% of the U.S. jail and prison population.<sup>1</sup> In the City of St. Louis, Missouri, the 2020 census

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<sup>1</sup> Amber Pariona, *US Population By Race*, WORLDDATLAS, (Jul. 18, 2019), <https://www.worldatlas.com/articles/incarceration-rates-by-race-ethnicity-and-gender-in-the-u-s.html>. See also Wendy Sawyer and Peter Wagner, *Mass*

found the City’s Black population is 45.7%.<sup>2</sup> Yet, the jail population in the City of St. Louis is over 95% Black.<sup>3</sup>This overrepresentation of Black persons detained in the City of St. Louis translates into an increased risk of discriminatory treatment and racially disparate impact, as well as violations of the right to freedom from torture.

The United Nations Committee on the Elimination of Racial Discrimination (hereinafter “CERD Committee”) has previously made recommendations to the United States regarding eliminating racial disparities at all stages of the criminal justice system. Despite those recommendations, racially discriminatory treatment of detainees in the jails in the City of St. Louis, as well as jails across the United States, has continued to worsen. The focus of this report, on the racially discriminatory treatment and conditions in pretrial detention for Black persons detained by the City of St. Louis, provides ongoing examples of this worsening racial discrimination.

### III. TESTIMONIALS BY PRETRIAL DETAINED BLACK PERSONS

“It’s been hard, I’ve been in a cell for 23 hours a day. In the one hour a day I get out, I have to shower, I have to make all of my calls, it’s crazy. I’ve been in here for 13 months. It feels crazy to be without my family. My daughter has been born since I was jailed, and I can’t even hold her yet,” said Derrick Jones, a pretrial detainee held at the City Justice Center in the City of St. Louis Missouri.<sup>4</sup>



In December 2020, Derrick Jones was unnecessarily maced after requesting to move to a different cell because his cellmate was demonstrating signs of COVID-19. Derrick was then taken to the ground, kicked, handcuffed, and maced again. Despite asking for help, a lieutenant allegedly said, “[l]et him marinate.” Derrick later saw a medical staff member who washed his eyes, but he was then taken to solitary for eight days, and during that time he was denied a shower and change of clothes, despite established medical guidance and a jail policy requiring staff to provide clean clothes to detainees after they have been sprayed with chemical agents.<sup>5</sup> In addition to

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*Incarceration: The Whole Pie 2022*, PRISON POLICY (Mar. 14, 2022), <https://www.prisonpolicy.org/reports/pie2022.html>.

<sup>2</sup> U.S. Census Bureau, Quick Facts, St. Louis City, Missouri (2021), <https://www.census.gov/quickfacts/stlouiscitymissouri>.

<sup>3</sup> City of St. Louis, Missouri, Inmate Population Data By Year, StLouis-Mo.Gov, 2022, <https://www.stlouis-mo.gov/data/dashboards/inmates/index.cfm?startYear=2010&endYear=2022&measure=dailyPopulation&attribute=race#byYear>.

<sup>4</sup> ArchCity Defenders, *New Federal Lawsuit Details Culture of Water Deprivation and Excessive Macing at City Justice Center* (May 24, 2021), <https://www.archcitydefenders.org/for-immediate-release-new-federal-lawsuit-details-culture-of-water-deprivation-and-excessive-macing-at-city-justice-center/>.

<sup>5</sup> ArchCity Defenders, Complaint (mace+water) – Jones, 1-2 (May 24, 2021), <https://www.archcitydefenders.org/wp-content/uploads/2021/05/Jones-et-al-vs.-St.-Louis-City-.pdf>.

experiencing macings and water shutoffs, Derrick was locked in solitary confinement for over a year. He had no functioning light in his cell, only what came through the cracks in his door.<sup>6</sup>

“I had a corrections officer tell me ‘we will kill your ass in here.’ Somebody has to do something,” said Darnell Rusan, a pretrial detainee held at the City Justice Center in the City of St. Louis Missouri.<sup>7</sup>



Darnell Rusan has been targeted with excessive chemical agents three times while awaiting trial in St. Louis. In December 2021, correctional officers (COs) maced him, removed him from the shower, handcuffed him, and slammed his head into an elevator wall. While he was in the medical unit, a correctional officer started hitting and choking Darnell said to him, “we’ll kill your little ass in here.” After that, he was choked again, and experienced blurred vision and dizziness. He was then forced into a small room, maced again, and left by himself for nine hours with no water or medical care.<sup>8</sup>

“Since these macing incidents, I have had difficulty breathing. I feel like a fish out of water, like my lungs are locked up. I’ve begun to black out, seeing black dots in my vision, feeling lightheaded, and seeing stars. These experiences have made me feel mad, powerless, and sad. The water shutoffs have led to physical pain. I have experienced severe constipation and pain after attempting to use the bathroom,” said Ovell Smith, Jr., a pretrial detainee held at the City Justice Center in the City of St. Louis Missouri.<sup>9</sup>

Ovell Smith, Jr., who has had asthma since he was a child, has been excessively maced three times while detained in jail by the City of St. Louis. In August 2021, his water had been shut off for two days without justification. He was unable to drink water and his toilet was not flushing. He complained to a correctional officer about the water being shutoff and asked to speak to a lieutenant. The correctional officer left and came back with multiple officers who sprayed him with mace from “riot-sized” cans without warning. His eyes were burning, and he could not breathe. Ovell was then handcuffed and walked to a visiting booth where he was sprayed again with his hands cuffed behind his back. He was not allowed a shower after that for another a day or two to wash off the mace.<sup>10</sup>

In January 2022 Marrell Withers, a detainee at the City Justice Center, was told he was being moved to a COVID positive unit despite having tested negative for COVID. Marrell was

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<sup>6</sup> *Id.* at 6.

<sup>7</sup> Roderick & Solange MacArthur Justice Center, *Jones v. City of St. Louis*, <https://www.macarthurjustice.org/case/jones-v-city-of-st-louis/>.

<sup>8</sup> *Id.*

<sup>9</sup> Roderick & Solange MacArthur Justice Center, *Jones v. City of St. Louis*, Declarations, 8-17, <https://www.macarthurjustice.org/wp-content/uploads/2021/05/Declarations.pdf>.

<sup>10</sup> *Id.*

aware that the Omicron variant of COVID-19 was surging and was afraid of being exposed to COVID and asked that officers confirm the result of his COVID test. Instead of calling medical, Captain Willis instructed a correctional officer to mace Marrell, who was handcuffed behind his back. Marrell told them that he had asthma and begged them not to mace him. Nonetheless the correctional officer reached around and maced Marrell twice in the face, from less than two feet away.<sup>11</sup>

The excessive use of chemical agents in pretrial detention in the United States is not specific to St. Louis, Missouri. In 2009, in Lee County Jail in Fort Meyers, Florida, Nick Christie who was being held in the jail's mental health unit, died after being sprayed at least 10 times over the course of two days.<sup>12</sup> Mr. Christie was placed in a restraining chair, unable to move his arms and legs, and sprayed with chemical agents; he went into respiratory distress, suffered two heart attacks after that and died.<sup>13</sup> An emergency room physician testified in the case that Mr. Christie was "entirely covered in pepper spray" and a coroner ruled the death as a homicide.<sup>14</sup> In 2010, Rommel Johnson—an asthmatic and paranoid schizophrenic—was gassed in the face, chest, and torso in a Northwestern Florida correctional facility. He died later that night of an asthma attack, his body "saturated" in chemical residue.<sup>15</sup> In 2019, Jamel Floyd, a black man housed in federal prison in New York City, died after the guards used pepper spray on him because he was disruptive.<sup>16</sup>

#### IV. EXCESSIVE USE OF CHEMICAL AGENTS

Correctional officers in the City of St. Louis, Missouri, regularly deploy chemical agents disproportionately against Black detainees in violation of prohibitions under U.S. law and human rights law on excessive use of force and non-discrimination.<sup>17</sup> In 2021, correctional officers in St. Louis deployed chemical agents against Black detainees on an almost daily basis, with many

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<sup>11</sup> Roderick & Solange MacArthur Justice Center, *Jones v. City of St. Louis*, Motion for Class Certification, [https://www.macarthurjustice.org/wp-content/uploads/2021/05/72-1\\_MISO-of-Ps-Mot-for-Class-Cert.pdf](https://www.macarthurjustice.org/wp-content/uploads/2021/05/72-1_MISO-of-Ps-Mot-for-Class-Cert.pdf).

<sup>12</sup> *Christie ex rel. Estate of Christie v. Scott*, 923 F. Supp. 2d 1308 (M.D. Fla. 2013).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* See also Alysia Santo, *Adding Pepper Spray to the Prison Arsenal*, THE MARSHALL PROJECT (May 12, 2015), <https://www.themarshallproject.org/2015/05/12/adding-pepper-spray-to-the-prison-arsenal>.

<sup>15</sup> Natasha Bertrand, *Florida corrections officers caught arbitrarily spraying inmates with pepper spray and tear gas*, BUSINESS INSIDER (Mar. 23, 2015), <https://www.businessinsider.com/florida-corrections-officers-caught-spraying-inmates-with-pepper-spray-and-tear-gas-2015-3>.

<sup>16</sup> Sanya Mansoor, *'Momma's Not Stopping Until That Jail Goes Down.'* *The Family of Jamel Floyd, New York Man Who Died After Being Pepper Sprayed By Jail Guards, Speaks Out*, TIME (Oct. 13, 2020), <https://time.com/5880800/jamel-floyd-jail-death-family-pepper-spray/>.

<sup>17</sup> U.S. law prohibits the excessive use of force and also prohibits the use of force as punishment or reprisal against a prisoner or solely for the purpose of causing physical or psychological pain. See Human Rights Watch, *Callous and Cruel: Use of Force against Inmates with Mental Disabilities in US Jails and Prisons*, FN 138 (May 12, 2015), [https://www.hrw.org/report/2015/05/12/callous-and-cruel/use-force-against-inmates-mental-disabilities-us-jails-and#\\_ftn138](https://www.hrw.org/report/2015/05/12/callous-and-cruel/use-force-against-inmates-mental-disabilities-us-jails-and#_ftn138). See also, International Covenant on Civil and Political Rights (ICCPR) Article 10 (stating that "[a]ll persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.").

detainees being maced several times. The most used chemical agent is oleoresin capsicum (otherwise known as mace, ‘OC spray’, or pepper spray).<sup>18</sup> Indeed, a can of chemical agents is included as part of Correctional officers’ utility belt, which they can use at any time to punish detainees for perceived “infractions” including minor infraction and slights. Chemical agents are too often sprayed through the food hole (also known as “chuckhole”) of a locked jail cell or sprayed on the face of detainees who are restrained in handcuffs and pose no physical threat.<sup>19</sup> When chemical agents are sprayed in one cell, it often spreads through the cell air vents into multiple cells and causes respiratory issues, rashes, and eye problems for dozens of detainees to at a time.

At the federal level, there was a policy shift at the U.S. Bureau of Prisons in 2015, equipping most federal correctional officers, many for the first time, with chemical agents.<sup>20</sup> Individual U.S. states adopted similar policies shortly after, including the State of Missouri. In the first two months of 2021, City of St. Louis alone spent over \$17,000 for pepper spray—despite serious allegations of abuse in its correctional facilities.<sup>21</sup>

Chemical agents like mace, OC spray, and pepper spray can have grave and long-lasting effects. For example, contact with mace particles in a mist incapacitates subjects by inducing an almost immediate burning sensation of the skin, but more important a burning, flaring, and swelling of the eyes.<sup>22</sup> When the mace is inhaled, the respiratory tract becomes inflamed, resulting in a swelling of the mucous membranes lining the breathing passages and temporarily restricting breathing to short, shallow breaths.<sup>23</sup> Even tear gas, whose use on civilians has been criticized, *does not* have the same inflammation and swelling effects as mace.<sup>24</sup> The National Institute of Justice’s guidelines indicate that law enforcement officers need to provide proper ventilation and access to water for flushing the eyes and skin after applying mace.<sup>25</sup> The National Institute of Justice has also noted that because mace causes upper respiratory inflammation, it may have detrimental effects on people with preexisting respiratory problems such as asthma.<sup>26</sup>

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<sup>18</sup> See The Marshall Project, *supra* note 14.

<sup>19</sup> See Info from Civil Society Organizations for List of Themes to Comm. on the Elimination of Racial Discrimination, Civil and Human Rights Organizations based in St. Louis Missouri: Gross Human Violations at the St. Louis City Justice Center, Info from Civil Society Organizations for List of Themes to CERD Committee (Jan. 15, 2022), [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fNGO%2fUSA%2f48582&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fNGO%2fUSA%2f48582&Lang=en).

<sup>20</sup> See The Marshall Project, *supra* note 14.

<sup>21</sup> Doyle Murphy, *St. Louis Jails Stocked Up on Pepper Spray as Detainees Complained of Abuse*, RIVERFRONT TIMES (Jul. 28, 2021), <https://www.riverfronttimes.com/news/st-louis-jails-stocked-up-on-pepper-spray-as-detainees-complained-of-abuse-35962135?storyPage=2>.

<sup>22</sup> U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, Technology Assessment Program, *Oleoresin Capsicum: Pepper Spray as a Force Alternative*, 2 (Mar. 1994), <https://www.ojp.gov/pdffiles1/nij/grants/181655.pdf>.

<sup>23</sup> *Id.* at 1.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 3.

Human Rights Watch released a report in 2015 regarding the callous and cruel use of force against detainees with disabilities in U.S. jails and prisons.<sup>27</sup> That report illustrated that the misuse of force on detainees with schizophrenia or bipolar disorder is widespread and increasing. Moreover, that report highlighted that the use of chemical agents is less likely to be effective on people experiencing psychosis and could even cause delusions, resulting in a cycle where a mentally ill detainee’s behavior is exacerbated by the use of force and more force will then be applied.<sup>28</sup> The Department of Corrections for the City of St. Louis has no processes or procedures in place to identify and protect medically vulnerable detainees—those with respiratory issues, mental health issues, or other conditions that may be in danger of long term harm or death—from being sprayed with chemical agents.

The undersigned civil and human rights organizations working in St. Louis demand that the City of St. Louis, Missouri, **stop all use of chemical agents against detained persons who are restrained or in a locked cell.** In addition, the City of St. Louis must **identify and protect medically vulnerable detainees from use of chemical agents which aggravates and complicates medical issues.**

## V. WATER SHUTOFFS TO JAIL CELLS

In the City of St. Louis, Missouri, correctional officers deliberately and punitively shut off water access to jail cells, depriving detainees of potable water and water to flush the toilets in their cells. Often, these water shutoffs are used in combination with chemical agents, so a correctional officer may shut off the water to a detainee’s jail cell and then spray mace into the cell and leave the detainee to “marinate” for hours or days at a time.<sup>29</sup> Indeed this has happened countless times and detainees are forced to suffer through the ill-effects of the mace without the ability to wash off the mace and deprived of drinking water to satisfy basic health and medical needs.<sup>30</sup>

Many Black detainees at in City of St. Louis jails have experienced water deprivation for *multiple days* at a time.<sup>31</sup> Detainees are forced to stay in their cells for 24 hours per day, to sleep next to overflowing toilets filled with excrement, and they are not given bottled water or other water supplements while the water to the sinks in their cells is shut off. These water shutoffs are not in response to plumbing or mechanical issues at the jail. Instead, correctional officers in St. Louis use water deprivation as discipline for perceived ‘misconduct’, including when detainees

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<sup>27</sup> See Human Rights Watch, *supra* note 17.

<sup>28</sup> *Id.*

<sup>29</sup> Roderick & Solange MacArthur Justice Center, New Federal Lawsuit Details Culture of Water Deprivation and Excessive Macing at City Justice Center (May 25, 2021), <https://www.macarthurjustice.org/new-federal-lawsuit-details-culture-of-water-deprivation-and-excessive-macing-at-city-justice-center/>.

<sup>30</sup> Moreover, detainees who take medication and have health issues that can be affected by water dehydration are given no accommodations when water is shut off. *See id.*

<sup>31</sup> *Id.*



‘ask too many questions’ or ‘have a bad attitude’.<sup>32</sup> Water deprivation to jail cells has also been used by correctional officers in the City of St. Louis as retaliation for filing grievances and in reaction to protests related to unsanitary jail conditions.<sup>33</sup>

Water shutoffs to jail cells not only violate detained persons’ human rights to water, sanitation, an adequate standard of living, health, and privacy, but these tortuous punishment tactics also violate their human right to freedom from discrimination. Black detained persons in the City of St. Louis face disparate treatment based on their race and status as a detained person in how often the water is shutoff by correctional officers as punishment. Moreover, because the population of detained persons in St. Louis is nearly all Black, more Black detained persons suffer from water shutoffs more often, as compared with the White population of detained persons. In other words, there is not only disparate treatment of Black detained persons with regard to water shutoffs, but there is also a disparate impact of water shutoffs as a punishment tactic on Black detained persons in the City of St. Louis.

The use of water shutoffs to pretrial detainee cells as a punitive measure is not limited to the City of St. Louis. In 2016, Terrill Thomas died of dehydration in a Milwaukee, Wisconsin, jail after the water was shut off to his cell for seven days. The correctional officers forced Thomas to spend the last week of his life locked in his cell for 24 hours a day with no drinking water, no edible food, no working toilet, no ability to communicate with anyone on the outside, and no meaningful access to urgently needed medical or mental health care.<sup>34</sup> In 2017, five named Plaintiffs from the Lake County Adult Correctional Facility in the City of Waukegan, Illinois, filed a Class Action against the Lake County Adult Correctional Facility for intentionally shutting of water at the correctional facility, depriving Plaintiffs of potable water and subjecting them to inhumane and unsanitary conditions.<sup>35</sup> The detainees were limited to one barrel of water for each cluster of cells to bathe, clean their cells, and flush toilets and limited each detainee to five water bottles a day.<sup>36</sup>

It’s widely accepted that deprivation of water, or dehydration, can cause severe ailments and developmental issues. The U.S. National Academies of Sciences, Engineering, and Medicine have determined that an adequate daily intake of water is roughly 125 ounces (3.7 liters) of water for men, and 91 ounces (2.7 liters) of water for women.<sup>37</sup> When persons do not have access to

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<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> Merrit Kennedy, *\$6.75 Million Settlement Paid to Family of Milwaukee Inmate Who Died of Dehydration*, NPR (May 29, 2019), <https://www.npr.org/2019/05/29/728023455/-6-75-million-settlement-paid-to-family-of-milwaukee-inmate-who-died-from-dehydr>.

<sup>35</sup> See *Hardeman v. Curran*, 933 F.3d 816 (7th Cir. 2019).

<sup>36</sup> Matt Reynolds, *Inmates Say Jailers Deprived Them of Drinking Water*, COURTHOUSE NEWS SERVICE (Dec. 5, 2017), <https://www.courthousenews.com/inmates-say-jailers-deprived-them-of-drinking-water/>.

<sup>37</sup> Mayo Clinic Staff, *Water: How much should you drink every day?*, MAYO CLINIC, <https://www.mayoclinic.org/healthy-lifestyle/nutrition-and-healthy-eating/in-depth/water/art-20044256>.

drinking water, symptoms of severe dehydration can occur, including, but not limited to: fatigue, confusion or short-term memory loss, depression or mood changes, constipation, migraine headaches, and in severe cases—death.<sup>38</sup> Medically vulnerable individuals often have trouble taking medication without water and are in great danger of long-lasting harm from deprivation of water.<sup>39</sup>

Within the jail and prison systems in the United States, there is no minimum standard for access to potable water and access to adequate sanitation for persons detained. The Association for The Prevention of Torture (APT), has explicitly stated that detainees should have access to a sufficient quantity of clean water *at all times*.<sup>40</sup> APT has also stated that available water supply should cover the drinking needs and personal hygiene of inmates, and that detainees should have access to water piped directly into their cells or dormitories.<sup>41</sup> Further, APT takes the position that the deprivation and restriction of water should be prohibited in all circumstances, including as a form of disciplinary action.<sup>42</sup> The undersigned civil and human rights organizations agree fully with APT and demand that the City of St. Louis **immediately ensure detained persons have access to clean water at all times and stop shutting off water to jail cells for punitive, not mechanical, purposes.**

## VI. SOLITARY CONFINEMENT

Dozens of detained persons in City of St. Louis jails are held in solitary confinement on any given day.<sup>43</sup> This is consistent with practices across the United States, where over 80,000 people are held in solitary confinement per day.<sup>44</sup> Detained persons of color in the United States are disproportionately placed in solitary at higher rates than their White counterparts.<sup>45</sup> U.S. correctional departments argue that the practice is necessary in order to isolate detainees who threaten the operation of the facility and pose safety risks to themselves, other detainees, or staff members.<sup>46</sup> However, the wide discretion afforded to detention facilitates lends itself to the abusive treatment of marginalized minorities.<sup>47</sup> Moreover, once put in solitary confinement, many detainees are deprived of regular classification reviews, causing them to be detained in solitary

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<sup>38</sup> Harvard T.H. Chan School of Public Health, Water, <https://www.hsph.harvard.edu/nutritionsource/water/>.

<sup>39</sup> Mayo Clinic, Dehydration, <https://www.mayoclinic.org/diseases-conditions/dehydration/symptoms-causes/syc-20354086>.

<sup>40</sup> Association for the Prevention of Torture, Food and Water, <https://www.apr.ch/en/knowledge-hub/detention-focus-database/material-conditions-detention/food-and-water>.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> City of St. Louis, Missouri, Inmate Population Data By Day, StLouis-Mo.Gov, 2022, <https://www.stlouis-mo.gov/data/dashboards/inmates/by-day.cfm?date=09%2F01%2F2021&race=all&sex=all&employment=all&maritalStatus=all&topCharge=all#singleD>.

<sup>44</sup> Andrea Fenster, *New data: Solitary Confinement increases risk of premature death after release*, PRISON POLICY (Oct. 13, 2020), [https://www.prisonpolicy.org/blog/2020/10/13/solitary\\_mortality\\_risk/](https://www.prisonpolicy.org/blog/2020/10/13/solitary_mortality_risk/).

<sup>45</sup> Melinda Tasca and Jillian Turnavoic, *Examining Race and Gender Disparities in Restrictive Housing Placements*, OFFICE OF JUSTICE PROGRAMS (Sept. 2018), <https://www.ojp.gov/pdffiles1/nij/grants/252062.pdf>.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

confinement far longer than any official institutional justification. Correctional officers’ risk assessments of detainees are directly linked to racial bias and stereotypes.<sup>48</sup> Solitary confinement is used most commonly as a punishment tactic against detainees and many detainees are held in solitary confinement in St. Louis for *months* at a time. While solitary confinement may have originally been intended to address and deter violent and dangerous behavior in jails, it has overwhelmingly become a commonly used punishment even for the most minor nonviolent rule violations by prisoners.<sup>49</sup>

The City of St. Louis’ official position is that no detained persons are held in ‘solitary confinement’ despite subjecting detainees to conditions that match the definition of “solitary confinement.” Solitary confinement is defined by the U.N. Special Rapporteur on torture, cruel, inhuman, degrading treatment and punishment as “physical and social isolation of individuals who are confined to their cells for 22 to 24 hours a day.”<sup>50</sup> When detained persons are held in a St. Louis jail in both Administrative Segregation (Ad Seg) and on Mass Assault Status (MAS) at the St. Louis City jails, they are held in a cell without a roommate or “cellie” and they are not allowed out of their cells for a minimum of one hour per day,<sup>51</sup> which meets the definition of solitary confinement. Often detainees on Ad Seg or MAS status are not allowed out of their cells on the weekends and there have been instances when detainees have been detained exclusively in their cell for more than a week at a time—without access baths, recreation, or the opportunity to call their lawyer.<sup>52</sup> Regardless of what the City of St. Louis calls it, Ad Seg and MAS *are* solitary confinement. In City of St. Louis jails, according to the Saint Louis monthly population reports from September-November 2021, out of a population of 574 inmates, of which only 25 were Caucasian, 81 inmates were confined in solitary—indicative of the disparate impact this has on African American inmates.<sup>53</sup>

The impact of solitary confinement on the physical and mental health has been documented widely. The restrictions experienced while in solitary confinement directly implicates detainees’ health, wellbeing, behavior, lifespan, and significantly diminish chances of successful reentry into society upon release.<sup>54</sup> Detainees in solitary develop skin conditions such as fungus, rashes, dry and flaky skin—directly correlated to the poor air and water quality, irritating hygiene products

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<sup>48</sup> *Id.*

<sup>49</sup> Kayla James & Elena Vanko, *The Impacts of Solitary Confinement*, VERA INSTITUTE (Apr. 2021), <https://www.vera.org/downloads/publications/the-impacts-of-solitary-confinement.pdf>.

<sup>50</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, U.N. Doc. A/66/268 (Aug. 5, 2011), <https://daccess-ods.un.org/tmp/6855849.02763367.html>.

<sup>51</sup> City of St. Louis, Missouri, Inmate Handbook, 9 Section F (5) (2019), StLouis-Mo.Gov, <https://www.stlouis-mo.gov/government/departments/public-safety/corrections/documents/upload/INMATE-HANDBOOK-2019-ENGLISH.pdf> (noting that inmates in Ad Seg have the right to one hour of recreation, five days a week *and* access to outside recreation).

<sup>52</sup> Melinda Tasca and Jillian Turnavoic, *supra* note 45.

<sup>53</sup> Inmate Population Data By Day, *supra* note 43.

<sup>54</sup> *Id.*

used by facilities, and lack of sun exposure.<sup>55</sup> Unlike detainees in general population, those in solitary are often denied commissary which eliminates inmates the opportunity of obtaining higher-quality hygiene products, thus making it more prone for inmates to develop skin conditions.<sup>56</sup> Furthermore, research indicates that the lack of natural light in solitary units leads to vitamin D deficiency.<sup>57</sup> Placement in solitary confinement is also associated with symptoms of increased psychological distress including anxiety, depression paranoia, aggression, and post-traumatic stress disorder.<sup>58</sup> The stress of solitary confinement causes permanent changes to people’s brains and personalities—including the physically shrinking of the part of the brain associated with memory.<sup>59</sup> Research has also demonstrated that within the first two weeks of being released from solitary, risk of death is twelve times higher than for detainees in the general population.<sup>60</sup> Indeed the U.N. Special Rapporteur on Torture has concluded that solitary confinement that lasts longer than 15 days amounts to torture and should be subject to absolute prohibition.<sup>61</sup>

Because Black detainees are disproportionately locked up in solitary, they also must disproportionately suffer these harms. The recidivism rates for individuals released directly from solitary into the community are significantly higher than those who spend no time in solitary.<sup>62</sup> Research indicates that time spent in solitary increases the likelihood of post-release offending, especially violent re-offending.<sup>63</sup> These practices not only put Black communities at risk by releasing offenders who are more likely to commit violent offenses, but also perpetuate a cycle of detention that is nearly impossible to break.

Despite guidance on solitary confinement provided in 2016 by the U.S. Department of Justice stating that “[solitary] should be used rarely, applied fairly, subjected to reasonable constraints, and never used as a default solution,” the City of St. Louis continues to place detainees in solitary confinement indefinitely and on a regularly basis. The undersigned civil and human rights organizations demand that the City of St. Louis **immediately cease the use of all forms of solitary confinement.**

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<sup>55</sup> Justin D. Strong et al., *The body in isolation: The physical health impacts of incarceration in solitary confinement*, PLoS One, 15(10): e0238510 (2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7546459/>.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> Justin D. Strong et al, *supra* note 55.

<sup>59</sup> Tiana Herring, *The research is clear: Solitary confinement causes long-lasting harm*, PRISON POLICY (Dec. 8, 2020), [https://www.prisonpolicy.org/blog/2020/12/08/solitary\\_symposium/](https://www.prisonpolicy.org/blog/2020/12/08/solitary_symposium/).

<sup>60</sup> *Id.*

<sup>61</sup> U.N. Office of the High Commissioner for Human Rights, United States: prolonged solitary confinement amounts to psychological torture, says UN expert (Feb. 28, 2020), <https://www.ohchr.org/en/press-releases/2020/02/united-states-prolonged-solitary-confinement-amounts-psychological-torture>.

<sup>62</sup> Kayla James & Elena Vanko, *supra* note 49.

<sup>63</sup> *Id.*

## VII. CERD COMMITTEE POSITIONS

### i. Excessive Use of Chemical Agents

The CERD Committee has previously raised concerns regarding excessive use of force by law enforcement officials (including police officers, the Department of Homeland Security, and U.S. Customs and Border Protection) against members of racial and ethnic minorities.<sup>64</sup> The Committee has further urged the United States to intensify its efforts to prevent the excessive use of force by law enforcement officials by ensuring compliance with the 1990 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.<sup>65</sup> The City of St. Louis has failed to comply with these recommendations.

### ii. Water Shutoffs to Jail Cells

The CERD Committee has not taken a position yet on water shutoffs to the cells of pretrial detainees as punishment and in violation of the human rights to freedom from discrimination and torture, cruel, inhuman and degrading treatment or punishment.

### iii. Solitary Confinement

The CERD committee has not yet taken a position on solitary confinement as means of torture against pretrial detainees, specifically on solitary confinement disproportionately affecting the Black community. However, the CERD Committee's General Recommendation No. 34 (2011) addresses generally racial discrimination against people of African descent.<sup>66</sup> Specifically, General Recommendation No. 34 states that national strategies and programs to improve the conditions of the Black community and protect against discrimination by State agencies or organizations (which includes prisons/detention facilities) should be adopted and implemented.<sup>67</sup> The City of St. Louis has failed to comply with this general recommendation and has perpetuated racial discrimination with its disproportionate use of solitary confinement for Black detainees.

## VIII. U.S. GOVERNMENT RESPONSES

### i. Excessive Use of Chemical Agents

The United States has repeatedly addressed the excessive use of force by police and customs and border patrol officials against members of racial and ethnic minorities in its periodic reports to the CERD Committee.<sup>68</sup> For example, in its combined tenth to twelfth periodic reports,

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<sup>64</sup> See e.g., Comm. on the Elimination of Racial Discrimination, Concluding observations on the combined seventh to ninth periodic reports of the United States of America, U.N. Doc. CERD/C/USA/CO/7-9 (Sept. 25, 2014), <https://2009-2017.state.gov/documents/organization/235644.pdf>.

<sup>65</sup> *Id.*

<sup>66</sup> Comm. on the Elimination of Racial Discrimination, General recommendation No. 34: Racial discrimination against people of African descent, U.N. Doc. CERD/C/GC/34 (Oct. 3, 2011), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/460/43/PDF/G1146043.pdf?OpenElement>.

<sup>67</sup> *Id.* at ¶ 11.

<sup>68</sup> See e.g., Fourth to Sixth Combined Periodic Reports of the United States of America to the Comm. on the Elimination of Racial Discrimination, U.N. Doc. CERD/C/USA/6, ¶ 154-55, 198 (Oct. 24, 2007); Seventh to Ninth

the United States noted that it is “concerned about excessive use of force and takes measures to address such activity when it occurs to persons of all races and ethnicities.”<sup>69</sup> However, the United States has not addressed the excessive use of force in detention facilities as a racial justice issue.

## **ii. Water Shutoffs to Jail Cells**

The United States has not yet addressed water shutoffs to the cells of pretrial detainees as disproportionately impacting Black detainees in its CERD reports. Tangentially, the United States has, however, addressed the Environmental Protection Agency’s (EPA) commitment to racial equality and advancing civil rights laws. In its combined tenth to twelfth periodic reports, the United States stated that:

EPA is committed to affirmatively advancing equity, civil rights, racial justice, and equal opportunity, and to ensuring that its mission to protect human health and the environment embraces all persons in the United States, regardless of race, color, national origin, disability, sex, or age. EPA’s External Civil Rights Compliance Office enforces federal civil rights laws that prohibit discrimination. Going forward, EPA will work to develop programs, policies and activities to address the disproportionate health, environmental, economic, and climate impacts on disadvantaged communities and to ensure the enforcement of civil rights laws.<sup>70</sup>

Within this commitment, it’s necessary that the United States include the advancement of civil rights and the protection of health, environmental, economic, and climate impacts on disadvantaged communities, including Black detainees in the jails across the U.S. Water deprivation, whether intentional or by failing to ensure access to potable water, undoubtedly has detrimental health impacts and must be addressed.

## **iii. Solitary Confinement**

The United States has not yet addressed solitary confinement of adult pretrial detainees in its CERD reports. However, in its combined tenth to twelfth periodic reports, the United States included the following regarding the use of solitary confinement in juvenile detention facilities:

Over the past several years, a number of states have banned the use of solitary confinement in juvenile corrections. The 2018 First Step Act prohibits the use of solitary confinement for juvenile delinquents in federal custody except under limited circumstances.<sup>71</sup>

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Combined Periodic Reports of the United States of America to the Comm. on the Elimination of Racial Discrimination, U.N. Doc. CERD/C/USA/7-9, ¶ 92, 94 (Sept. 25, 2014); Tenth to Twelfth Combined Periodic Reports of the United States of America to the Comm. on the Elimination of Racial Discrimination, U.N. Doc. CERD/C/USA/10-12, ¶ 71-82 (Dec. 20, 2021).

<sup>69</sup> CERD/C/USA/10-12, ¶ 77.

<sup>70</sup> *Id.* at ¶ 39.

<sup>71</sup> *Id.* at ¶ 119

In addition, in its sixth periodic report submitted to the U.N. Committee against Torture in October 2021, the United States noted that solitary confinement should be “used rarely, applied fairly, and subjected to reasonable constraints”.<sup>72</sup> The United States assured the Committee against Torture that it was helping to “ensure that inmates are housed in the least restrictive setting necessary to ensure their own safety and the safety of staff, other inmates, and the public.”<sup>73</sup>

## **IX. OTHER HUMAN RIGHTS BODIES RECOMMENDATIONS**

### **i. Excessive Use of Chemical Agents**

International human rights law is binding on all government actors, including correctional officers and other law enforcement officers even in the United States.<sup>74</sup> In 2020, in response to the killing of George Floyd and deaths of other people of African descent in the United States by law enforcement officers, the U.N. Human Rights Council condemned racially discriminatory and violent practices perpetrated by law enforcement agencies against Africans and people of African descent including excessive use of force and other human rights violations.<sup>75</sup>

The United Nations Standard Minimum Rules for the Treatment of Prisoners (hereinafter the “Nelson Mandel Rules”) state that that under “no circumstances whatsoever” may detainees be treated with cruel, inhuman, or degrading treatment or punishment.<sup>76</sup> This basic principle is supposed to ensure that prisoners will be treated with respect, dignity, and valued as human beings.<sup>77</sup> Rule 36 of the Nelson Mandela Rules also states that “[d]iscipline and order shall be maintained with no more restriction than is necessary to ensure safe custody, the secure operation of the prison and a well-ordered community life.”<sup>78</sup>

In addition, Rule 42 of the Nelson Mandel Rules states that every prisoner has the right to general living conditions including proper ventilation, sanitation, access to drinking water, and rights to personal hygiene as defined in Rules 13, 15, 16, and 18.<sup>79</sup> When correctional officers in St. Louis use mace in one cell or against one detainee, dozens of other detainees are deprived of

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<sup>72</sup> Sixth period report submitted by the United States of America to the Comm. against Torture, U.N. Doc. CAT/C/USA/6, ¶ 92 (Sept. 24, 2021).

<sup>73</sup> *Id.*

<sup>74</sup> *See* International Covenant on Civil and Political Rights (ICCPR), Article 2, para. 3.

<sup>75</sup> Resolution adopted by the Human Rights Council on the Promotion and protection of the human rights at fundamental freedoms of Africans and people of African descent against excessive use of force and other human rights violations by law enforcement officers, U.N. Doc. A/HRC/RES/43/1, ¶ 1-2 (Jun. 30, 2020), <https://undocs.org/A/HRC/RES/43/1>.

<sup>76</sup> U.N. Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) adopted by the General Assembly, U.N. Doc. A/RES/70/175, Rule 1 (Jan. 8, 2016), [https://www.un.org/en/events/mandeladay/mandela\\_rules.shtml](https://www.un.org/en/events/mandeladay/mandela_rules.shtml).

<sup>77</sup> *Id.*

<sup>78</sup> *Id.* at Rule 36.

<sup>79</sup> *Id.* at Rule 42.

proper ventilation, and due to the water shutoffs that usually go with the mace, sanitation, drinking water, and hygiene are also denied.

The Association for The Prevention of Torture (APT), has provided guidelines on the use of force in detention facilities, explaining that to abide by human rights law, “recourse to force must always be the exception and it must always be used as a last resort...[.].To prevent any abuse, recourse to force must respect the principles of legality, necessity and proportionality. Monitoring procedures must also be put in place, and those responsible for abuse must be held accountable.”<sup>80</sup> In the City of St. Louis, the use of chemical agents on detainees are not the exception, but the everyday norm.

In *Harakchiev & Toumov v. Bulgaria*, the European Court of Human Rights defined torture as “intentional placement in poor conditions of detention, consisting of insufficient...ventilation...[or] other culpable acts or omissions...capable of damaging a person’s health” (Section §3(2)(b) of the Execution of Punishment and Pre-Trial Detention Act), established these conditions amount to torture or cruel or inhuman treatment (§3(1)).<sup>81</sup> The daily macings combined with water shutoffs that Black detainees in St. Louis are forced to suffer amount to torture under the European Court’s definition.

## ii. Water Shutoffs to Jail Cells

In 2010, the U.N. General Assembly explicitly recognized the human right to water and sanitation.<sup>82</sup> The U.N. Committee of Economic, Social, and Cultural Rights has stated that: “the human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses”<sup>83</sup> and “that universal access to sanitation is not only fundamental to human dignity and privacy, but is one of the principal mechanisms for protecting the quality of water resources.”<sup>84</sup>

The U.N. Special Rapporteur on the human rights to safe drinking water and sanitation has stated that “[d]iscrimination on any prohibited grounds is a violation of the rights to water and sanitation, and access to justice must be ensured for the full scope of prohibited discrimination.”<sup>85</sup> Regarding access to water in detention facilities specifically, the U.N. Special noted in 2019 that

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<sup>80</sup> Association for the Prevention of Torture, Use of Force, <https://www.apr.ch/en/knowledge-hub/detention-focus-database/safety-order-and-discipline/use-force>.

<sup>81</sup> *Case of Harakchiev and Tolumov v. Bulgaria*, Apps nos. 15018/11 and 61199/12, Judgment ¶110 (Jul. 8, 2014), <https://hudoc.echr.coe.int/fre?i=001-145442>.

<sup>82</sup> General Resolution on the human right to water and sanitation adopted by the General Assembly, U.N. Doc.

A/RES/64/292 (Aug. 3, 2010), <https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/RES/64/292&Lang=E>.

<sup>83</sup> Comm. on Economic, Social and Cultural Rights, General Comment No. 15, U.N. Doc. CESCR/GC/15, ¶ 2 (Jan. 20, 2003), [https://www2.ohchr.org/english/issues/water/docs/CESCR\\_GC\\_15.pdf](https://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf).

<sup>84</sup> *Id.* at ¶29.

<sup>85</sup> Report of the Special Rapporteur on the human right to safe drinking water and sanitation, Common violations of the human rights to water and sanitation, U.N. Doc. A/HRC/27/55, ¶ 58 (Jun. 30, 2014), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/069/10/PDF/G1406910.pdf?OpenElement>.



“human right to safe drinking water entitles everyone [in all spheres of life]...to have access to water and...sanitation—including prisons and detention facilities.”<sup>86</sup> Furthermore, the Nelson Mandela Rules state that “[d]rinking water shall be available to every prisoner whenever her or she needs it”<sup>87</sup> and “sanitary installations shall be adequate...to comply with the need of nature when necessary in a clean and decent manner.”<sup>88</sup>

### iii. Solitary Confinement

According to multiple international treaty bodies and human rights experts, including the U.N. Human Rights Committee, the U.N. Committee against Torture, and the U.N. Special Rapporteur on torture, prolonged solitary confinement may amount to torture or cruel, inhuman, or degrading treatment prohibited by international human rights treaties.<sup>89</sup> The U.N. Special Rapporteur on torture has stated that solitary confinement can *only* be used in exceptional circumstances and must be as short as possible, for specified term that is communicated properly.<sup>90</sup> The U.N. Special Rapporteur on torture, cruel, inhumane and degrading treatment has noted that prolong solitary confinement—in excess of 15 days, should be subject to an absolute prohibition, noting scientific studies that established lasting mental damages caused after merely a few days of isolation.<sup>91</sup>

In 2014, the U.N. Committee against Torture stated in its concluding observations on the United States that it remains concerned about the practice of solitary confinement in the United States.<sup>92</sup> The U.N. Committee against Torture recommended that the use of solitary should be limited to a measure of last resort, for as short a time as possible, under strict supervision, and with the possibility of judicial review—all of which St. Louis has failed to comply with.<sup>93</sup> The Committee against Torture also recommended that facilities should compile and regularly publish data reflecting the use of solitary and related suicide attempts and self-harm as a result of such practice.<sup>94</sup> Currently, St. Louis only provides an inaccurate representation of its use of solitary.

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<sup>86</sup> Report of the Special Rapporteur on the human rights to safe drinking water and sanitation, Human rights to water and sanitation in spheres of life beyond the household with an emphasis on public spaces, U.N. Doc. A/HRC/42/47, ¶ 7 (2019), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/212/92/PDF/G1921292.pdf?OpenElement>

<sup>87</sup> Nelson Mandela Rules, *supra* note 76, Rule 22.

<sup>88</sup> *Id.* at Rule 15.

<sup>89</sup> Concluding observations of the Human Rights Comm. in consideration of the second and third periodic reports submitted by the United States of America, U.N. Doc. CCPR/C/USA/CO/3 (Dec. 18, 2006); Concluding observations of the Comm. against Torture in consideration of the second periodic report submitted by the United States of America, U.N. Doc. CAT/C/USA/CO/2 (Jul. 25, 2006); Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment,” U.N. Doc. A/66/ 268 (Aug. 5, 2011).

<sup>90</sup> A/66/ 268, ¶75.

<sup>91</sup> U.N. Office of the High Commissioner for Human Rights, *supra* note 61.

<sup>92</sup> Concluding observations by the Comm. against Torture on the combined third to fifth periodic reports of the United States of America, U.N. Doc. CAT/C/USA/CO/3-5, ¶ 20 (Dec. 19, 2014), <https://uhri.ohchr.org/en/document/79c2a87f-9133-4134-a720-451dde3eae19>.

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

The Nelson Mandela Rules also address solitary confinement, which is defined in the rules as “the confinement of prisoners for 22 hours or more a day without meaningful human contact.”<sup>95</sup> The Nelson Mandela Rules specifically prohibit: indefinite solitary confinement, solitary confinement in excess of 15 days, and reduction of drinking water.<sup>96</sup> Further, the rules state that “[s]olitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to the authorization by a competent authority”<sup>97</sup> and that the “imposition of solitary confinement should be prohibited in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures.”<sup>98</sup> The City’s practice of imposing solitary indefinitely, without justification, and in conjunction with excessive restrictions on Black detainees in solitary confinement, violate the Mandela Rules and constitute violations of the prohibition on torture cruel, inhuman and degrading treatment and punishment.

## X. RECOMMENDED QUESTIONS

- What steps have you taken to protect Black persons in pretrial detention against racially discriminatory treatment by correctional officers?
- What steps have you taken to protect Black persons in pretrial detention against racially discriminatory and excessive use of chemical agents for the purposes of punishment or order?
- What steps have you taken to ensure the right to potable water and equal access to water for Black persons in pretrial detention?
- What steps have you taken to end the disproportionate use of solitary confinement for Black persons in jails and prisons?

## XI. SUGGESTED RECOMMENDATIONS

- **The State Party must immediately take steps to restrict the widespread use of chemical agents on detained persons.**
  - The State Party must take steps to identify and protect medically vulnerable detainees from the use of any and all chemical agents.
  - The State Party must develop and implement a procedure for ongoing and periodic monitoring, reviewing, and auditing the use of chemical agents in its detention facilities, including on the disproportionate impact of chemical agents on Black detainees.

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<sup>95</sup> Nelson Mandela Rules, *supra* note 76, Rule 44.

<sup>96</sup> *Id.* at Rule 43.

<sup>97</sup> *Id.* at Rule 45.

<sup>98</sup> *Id.*

- The State Party must restrict officers who have been found to have used force inappropriately or excessively from carrying and having unrestricted latitude to use chemical agents.
  - The State Party must cease the use of “riot-sized” cans of mace, MK-9 Cellbusters or chemical agents of similar strength in.
  - The State Party must take steps to ensure that chemical agents are never used on detainees who are restrained in handcuffs or in a cell or detained in a similar room.
  - The State Party must require any use of chemical agents to be promptly and fully documented, including the events leading up to the use of chemical agents that, in the officer’s opinion, warrant such use of force.
- **The State Party should immediately stop shutting off water to jail cells except in instances of mechanical failures or flooding of jail cells.**
    - In the event of flooding of a jail cell by an inmate, water must only be shut off to the flooded cell.
    - In the event of mechanical failures, the water should be shut off for the shortest period possible to fix the mechanical issue.
    - Detainees should be moved to another cell where potable water is accessible and the toilet flushes if the water shutoff should need to occur for more than 30 minutes.
    - To the extent that water is shut off, correctional officials must document who shut off the water, for what purpose, and the amount of time the water was shut off.
    - Any and all water shutoffs must be subject to review.
- **The State Party should immediately cease the use of all forms of solitary confinement.**
    - Regardless of whether the State Party acknowledges it as solitary confinement, it should cease the use of “administrative segregation”, “Mass Assault Status”, and any extended physical isolation of any kind for more than 15 days.