

**Testimony by the Campaign for Alternatives to Isolated Confinement**

**Submitted to the New York State Assembly on November 13, 2014**

The Campaign for Alternatives to Isolated Confinement consists of organizations and individuals who are working for sweeping reform of isolated confinement policies and practices in New York State. The leadership of the campaign includes individuals who have been directly affected by solitary confinement – people who themselves experienced solitary, and people who have family members or loved ones who are currently in solitary. It also includes concerned community members, lawyers, and individuals in the human rights, health, and faith communities throughout New York State. The Campaign would like to thank Assembly Member Daniel J. O’Donnell and Assembly Member Aileen M. Gunther for the opportunity to present testimony on the subject of solitary confinement in New York State’s prisons and jails and its effects on the mental health of incarcerated people.

We believe that solitary confinement poses serious risks for the mental health of all people held in such conditions, including the large number of people with a pre-existing mental health condition still in solitary. Our testimony will focus on the conditions of solitary confinement and outline the key components of meaningful reform.

**The Problem**

The conditions of solitary confinement are inhumane. In New York prisons and jails, as across the country, people are confined in a cell the size of an elevator for 22 to 24 hours a day, without any meaningful human contact, programs, or therapy. The one or two hours out of cell, if provided and utilized, take place alone in a recreation cage. Incarceration under these conditions constitutes torture.

Far too many people are subjected to these inhumane and counterproductive conditions. In New York State prisons alone, on any given day, there are around 3,800 people in one form of isolation, Special Housing Units (SHU), while many other people are in keeplock. In addition to the New York state prisons, thousands more people are held in solitary confinement in city and county jails, including New York City jails, not to mention people in solitary confinement in federal prisons and immigration detention centers.

Disproportionately, the people in solitary confinement are people of color. Although African Americans represent only around 18% of the total population of New York State, 50% of the people in NYS prisons are African American, and even more disproportionately, 60% of people in the SHU in NYS prisons are African American.[[1]](#footnote-1)

People are most often subjected to solitary confinement for non-violent conduct. In New York, five out of the six sentences that result in SHU sentences are for non-violent conduct. The most egregious examples include people having too many postage stamps, talking back to officers, refusing to give back a food tray, or speaking up for one’s own or others’ rights.

People are held in solitary confinement for far too long. The United Nations Special Rapporteur on Torture has concluded that holding any person in solitary beyond 15 days amounts to cruel, inhuman, or degrading treatment, or torture.[[2]](#footnote-2) Yet, in New York State, as around the country, it is regular practice to hold people in isolation for months and years, and sometimes even for decades.[[3]](#footnote-3) In New York, the majority of individual SHU sentences are for 90 days or more, and many people receive additional SHU time while in solitary, again leading to regularly holding people in solitary for months and years.

People are in solitary confinement who are particularly vulnerable either to the effects of isolation itself or to additional abuse while in isolation. Young people, elderly people, people with disabilities, people with mental health or addiction needs, pregnant women, and members of the LGBTI community are subjected to solitary confinement. In New York State, as of the latest available data, around 400 youth under the age of 21 are in isolation at any given time, and most relevant for this testimony around 17% of the people in SHU are on the mental health caseload.

Some individuals are put in solitary confinement not as punishment but presumably “for their own protection” but they are not then protected. This may include children who are tried as adults and sent to adult prisons. Or it may include transgender women who are housed in prisons for men. The conditions in protective custody generally resemble conditions in the SHU or other forms of isolated confinement. Moreover, often the isolation that is connected with such confinement may lead to additional abuse by staff, rather than protection. One’s identity - whether sex, race, sexual orientation, age, religion, gender identity or expression - is not a justification for the torture of solitary confinement.

Moreover, the processes resulting in solitary confinement are often arbitrary and unfair, involve under-equipped staff, and take place with little transparency or accountability. The hearings or administrative procedures that result in placement in solitary confinement are not conducted by judges or other supposedly non-biased neutral decision-makers, but rather by corrections staff. In New York, approximately 95% of the people who are charged with the most serious rule violations that can result in isolated confinement are found guilty.

**Effects of Solitary Confinement on Mental Health**

Prisons, and in turn solitary confinement units, have become de facto mental health centers. There are now three times as many men and women with mental illness in United States prisons as there are in mental health hospitals. In New York, by the state’s own estimate, more than 8,500 people in prison and over 650 people in isolated confinement are recognized as needing treatment for mental illness and on the Office of Mental Health (OMH) caseload. However, appropriate treatment is rarely provided in isolated confinement. And, because security staff are insufficiently trained in how to work effectively with people with the most serious needs or the most problematic behaviors, they tend to rely on punishment and isolation. These conditions are known to exacerbate rather than effectively address people’s mental health needs or the underlying causes of their behavior.

In addition to people with pre-existing mental health issues when placed in solitary confinement, extreme isolation has been proven to cause deep and permanent psychological, physical, and social harm on any person. Some of the reported symptoms include: heightened anger and aggression; increased anxiety; appetite and sleep disturbances; loss of impulse control; thought disturbances; concentration and memory problems; severe depression and hopelessness; fear of human contact; extreme paranoia; and hallucinations. Self-harming behaviors and suicide are also noted. Research on the effects of isolation on the brain have made it clear that the changes are not just behavioral or experiential, but that the brain itself may be changed. It is important to note that the suffering resulting from solitary confinement lasts beyond the individual’s time in isolation. It is still there when the person reenters the community. This is especially true for those who spent long periods in isolation and the 2,000 people each year released directly from solitary to the community.

The United Nations Special Rapporteur’s report on solitary confinement submitted to the General Assembly in 2011 outlines the negative effects of this practice on mental health. The report references studies which found continued sleep disturbances, depression, anxiety, phobias, emotional dependence, confusion, impaired memory and concentration even after release from isolation. These symptoms leave people formerly held in solitary confinement withdrawn, angry, and with high levels of social anxiety. Such symptoms can prevent individuals from successfully readjusting to life within the broader prison population and severely impairs their capacity to reintegrate into society when released from imprisonment.

Many studies have documented the detrimental psychological and physiological effects of long-term isolation. According to several state and national studies, at least half of all prison suicides occur in solitary confinement. Nationally recognized expert Dr. Stuart Grassian documented that nearly a third of the incarcerated persons he evaluated experienced perceptual distortions, in which objects appear to change size or form. This is particularly alarming since this symptom is more commonly associated with neurological illnesses, such as brain tumors, than with primary psychiatric illness.

Because youth are still developing mentally and physically, traumatic experiences like solitary confinement can exacerbate, or create for the first time, short and long-term mental health problems and severely heighten risk of suicide. Though several states have issued an outright ban on the punitive solitary confinement of youth, including Alaska, Connecticut, Maine, Oklahoma and West Virginia, the placement of youth in solitary confinement is not subject to a prohibition in most states and the federal system, and the practice persists widely. While New York State has recently taken some steps to limit solitary for the youngest people in prison – 16- and 17-year-olds, brain and youth development research indicates that young people into their mid-twenties are continuing to develop, and much more needs to be done to ensure that these young people as well are not subject to solitary confinement.

In addition, transgender people can face additionally challenging mental health effects from being in solitary and the connected abuse they face while in isolation. A recent study by Solitary Watch of transgender women currently or previously in solitary confinement reported that about half of those women interviewed disclosed having been sexually assaulted by guards while they were in isolation and described the psychological distress of enduring such brutality while locked up alone.[[4]](#footnote-4) By placing the already at-risk individuals in solitary confinement we threaten their psychological, physical and emotional well-being.

**The SHU Exclusion Act**

The SHU Exclusion Act, which took full effect on July 1, 2011, was a positive step for helping divert people with mental illness from the harmful effects of solitary confinement by providing protections for incarcerated people with serious mental illness. However, because most people with mental illness still remain in isolation and because solitary confinement has been proven to cause devastating mental health effects for all people, the law does not nearly go far enough. The purpose of the SHU Exclusion Act is to provide alternatives for people experiencing mental illness so that they do not further deteriorate as a result of treatment within prisons. However, in addition to some problems with implementation of the Act that others will address, the fact remains that people who are put into solitary confinement are experiencing mental illness as a direct result. The law doesn’t address this issue and only impacts a small number of people in New York State, while far more are experiencing mental health deterioration in solitary confinement and keeplock.

Therefore, New York State needs to address a solution that affects all people, regardless of pre-existing mental health needs. CAIC believes that the HALT Solitary Confinement Act provides this solution and urges the legislature to pass HALT as the next step beyond the SHU Exclusion Law to end the torture of solitary confinement for all people with mental illness and all people.

**The Solution**

CAIC believes we need sweeping reform of isolated confinement policies and practices in New York State to expand upon and improve the work done in the SHU Exclusion Law. Currently with more than 25 total co-sponsors in the NYS Assembly and Senate, the Humane Alternatives to Long Term (HALT) Solitary Confinement Act, A. 8588A / S. 6466A provides a comprehensive approach toward ending the torture of solitary confinement in a humane and effective manner.[[5]](#footnote-5)

HALT would help create a fundamental transformation from a focus on punishment, isolation, and deprivation, to a focus on accountability, rehabilitation, and treatment. Appropriate treatment and access to programs and recreation must be provided. If there are individuals who need to be separated from the rest of the general prison population because they pose a serious threat to the safety of others, that *separation* does not have to be *isolation*. Rather, people must be given many hours of out-of-cell time per day, as well as access to meaningful programs and services aimed at addressing their underlying needs. HALT requires that any person who must be separated beyond 15 days be placed in a more humane and effective alternative Residential Rehabilitation Units (RRUs) to receive this out-of-cell time, programs, and services.

In addition, HALT would create a drastic restriction in the criteria that can result in someone being separated from the general prison population and placed in long term isolation up to 15 days or in the RRUs. Extended separation and isolation for any length of time should be limited to serious threats to the safety of incarcerated people and staff.

Moreover, HALT would end long term solitary confinement. Given that the UN Special Rapporteur on Torture has concluded that solitary confinement for all people should be banned after 15 days because the devastating psychological effects of solitary can become permanent after that period of time, New York State prisons should never place someone in solitary for more than 15 days.

Further, HALT would ensure that people from certain groups -- young people, elderly people, people with disabilities, most relevant to this hearing people with mental health needs, pregnant women and new mothers, and members of the LGBTI community -- should never be placed in solitary confinement for any length of time because isolation itself can have more devastating effects on them and because they are more vulnerable to abuse while in isolation.

Finally, HALT would help ensure that staff are better equipped to work with people who are incarcerated, including those with the most serious needs or who engage in the most difficult behaviors, and that the processes that result in solitary confinement are fairer, more transparent, and conducted with more accountability.

**Conclusion**

The use and abuse of solitary confinement in New York State is in need of dramatic reform and a fundamental transformation. New York can no longer use the inhumane and counterproductive practice of solitary confinement for people with any mental health needs or for any incarcerated persons, and must create alternatives that are humane and effective. The HALT Solitary Confinement Act provides one example of a comprehensive approach toward ending the torture of solitary confinement in a humane and effective manner, and the growing movement of the Campaign for Alternatives to Isolated Confinement indicates that the time is ripe for fundamental change. We urge the legislature to take action to HALT solitary confinement and end the torture in New York.

1. *See*, *e.g.*,New York Civil Liberties Union, *Boxed In – The True Cost of Extreme Isolation in New York’s Prisons*, p. 24 (2012) (*“Boxed In”*), *available at*: <http://www.nyclu.org/publications/report-boxed-true-cost-of-extreme-isolation-new-yorks-prisons-2012>. [↑](#footnote-ref-1)
2. United Nations General Assembly, *Interim Report of the Special Rapporteur of the Human rights Council on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, p. 21, 23, Aug. 2011, available at: <http://solitaryconfinement.org/uploads/SpecRapTortureAug2011.pdf> (“*UN Rapporteur Report”)*. [↑](#footnote-ref-2)
3. Solitary Watch for example has documented the experiences of people incarcerated in NYS who have served as many as 10 years, 14 years, and 26 years in isolated confinement. *See Voices from Solitary*, Solitary Watch, *available at*: <http://solitarywatch.com/2013/03/11/voices-from-solitary-a-sentence-worse-than-death/>; <http://solitarywatch.com/2013/06/03/voices-from-solitary-the-loneliest-place-in-the-world/>; <http://solitarywatch.com/2013/05/01/voices-from-solitary-you-are-solitary-confinement/>. [↑](#footnote-ref-3)
4. Aviva Stahl, *Transgender Women in New York State Prisons Face Solitary Confinement and Sexual Assault*, Solitary Watch, August 7, 2014, *available at*: <http://solitarywatch.com/2014/08/07/transgender-women-in-new-york-state-prisons-face-solitary-confinement-and-sexual-assault/>. [↑](#footnote-ref-4)
5. For a more thorough explanation of the provisions of the HALT Solitary Confinement Act and the reasons why those provisions are necessary, please *see*, *e.g.*, Report on Legislation by the Corrections and Community Reentry Committee and International Human Rights Committee, *New York City Bar*, A.8588-A/S.6466-A, *available at*: <http://www2.nycbar.org/pdf/report/uploads/20072748-HALTSolitaryConfinementReport.pdf>;Testimony by the Correctional Association of New York, Before the Senate Judiciary Committee’s Subcommittee on the Constitution, Civil Rights, and Human Rights Reassessing Solitary Confinement, *available at*: <http://solitarywatch.com/wp-content/uploads/2014/02/Correctional-Association-testimoney-for-Congressional-Hearing-2-25-14-with-attachment.pdf>; Testimony by the Campaign for Alternatives to Isolated Confinement (CAIC), Before the Senate Judiciary Committee’s Subcommittee on the Constitution, Civil Rights, and Human Rights Reassessing Solitary Confinement, *available at*: <http://solitarywatch.com/wp-content/uploads/2014/02/Testimony-of-the-NY-Campaign-for-Alternatives-to-Isolated-Confinement-2014.pdf>. [↑](#footnote-ref-5)