

ROSEMARY ALMONTE

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Via E-Mail

Deborah Slack-Bean
Senior Attorney
New York State Commission of Correction
Alfred E. Smith Building
80 S. Swan Street, 12th Floor
Albany, NY 12210
Deborah.Slack-Bean@scoc.ny.gov

**re: Comment on *Proposed Rulemaking on Inmate Confinement and Deprivation*,
I.D. No. CMC-44-17-00012-P**

Dear Ms. Slack-Bean:

I am a resident of the Bronx and am writing to comment on the above-referenced rulemaking. I am motivated to weigh in on this issue because my cousin was subjected to the practice of solitary confinement and I strongly believe that, as has been well-documented, this form of confinement did irreparable damage to his mental health and impaired his efforts to reintegrate into our family and his community. Through the *Proposed Rulemaking on Inmate Confinement and Deprivation*, the Commission of Correction has expressed a commendable willingness to work to make sure that other families and communities do not have to suffer in the same way I have.

I would first like to note that these rules represent progress by leaps and bounds in jails in New York State, reducing the abuse of solitary confinement and of essential service deprivation as means of punishment. The lack of oversight over the use of these practices has permitted untold abuse to be inflicted on youth and adults in the jail system. Improved oversight will go a long way towards addressing this widespread problem.

That being said, that these rules apply only to jails and not to prisons is akin to covering up the sun with one's thumb: whereas jails housed around 24,000 people in 2016, state prisons housed over 50,000 individuals that same year.¹ The truly stark distinction between people in prisons and people in jails, however, is that people in prisons are housed for much longer periods of time, in a more complex, self-contained system, and more isolated and thus farther away from their families and loved ones. This means that the challenges that family and community members face in attempting to protect their loved ones are that much greater when dealing with the prison system.

Even the people these rules are meant to protect remain vulnerable due to the discretion given to the jails' chief administrative officer ("CAO"). A CAO may restrict the 4-hour out-of-

¹ *Inmate Population Statistics*, N.Y. STATE COMMISSION OF CORRECTION, <http://www.scoc.ny.gov/pop.htm>.

cell time permitted. Alternatively, because there is no requirement that those four hours include meaningful human contact or vital programming that is needed to minimize barriers to reentry, the CAO also holds the power to change the setting of isolation but maintain the conditions that themselves create harmful effects.

In sum, the proposed rules must be revised to provide real limits on the use of solitary confinement. A model for the necessary reforms already exists: the provisions of the HALT Solitary Confinement Act, A.3080/S.4784 provide the precise framework needed to limit the harmful effects of solitary confinement.² It provides meaningful program-based alternatives, restricts the bases for using solitary confinement, altogether bans solitary confinement for young people, the elderly, and individuals with mental and physical disabilities, and includes a scheme for periodic public reporting that better maintains accountability. Perhaps most importantly, the HALT Solitary Confinement Act brings New York State up to speed with the United Nations Standard Minimum Rules for the Treatment of Prisoners (known as the Nelson Mandela Rules), which recommend limiting solitary confinement to a maximum of 15 days.³

This political atmosphere calls on states to be the vanguards of justice. Bringing the Commission on Corrections regulations up to speed with, at minimum, the United Nation's most basic requirements would place the Commission in step with other state regulatory bodies, to say nothing of Governor Cuomo's stated mission to protect New Yorkers in other contexts when threats to our well-being arise.⁴

As outlined above, solitary confinement presents a threat to our collective well-being by threatening our family and friends' ability to successfully return and to contribute to our communities. Please help us stave off the potential damage today by amending the *Proposed Rulemaking on Inmate Confinement and Deprivation* to eliminate this harmful practice.

Sincerely,

/s/ Rosemary Almonte

Rosemary Almonte

² *Senate Bill S2659*, THE NEW YORK STATE SENATE, <https://www.nysenate.gov/legislation/bills/2015/s2659/amendment/original>.

³ THE UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (THE NELSON MANDELA RULES), UNITED NATIONS OFFICE ON DRUGS AND CRIME (2015).

⁴ *See, e.g., Governor Cuomo and U.S. Climate Alliance Announce States are on Track to Meet or Exceed Targets of Paris Climate Agreement*, GOVERNOR ANDREW M. CUOMO (Sept. 20, 2017), <https://www.governor.ny.gov/news/governor-cuomo-and-us-climate-alliance-announce-states-are-track-meet-or-exceed-targets-paris>; *Governor Cuomo Announces Impact of American Health Care Act*, GOVERNOR ANDREW M. CUOMO (Mar. 9, 2017), <https://www.governor.ny.gov/news/governor-cuomo-announces-impact-american-health-care-act>; <https://www.governor.ny.gov/news/governor-cuomo-and-us-climate-alliance-announce-states-are-track-meet-or-exceed-targets-paris>.