

PUBLIC COMMENTS RE SOLITARY CONFINEMENT REGULATIONS

December 18, 2017

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

Re: I.D. No. CMC-44-17-00012-P
“[Incarcerated Person] Confinement and Deprivation”

The following organizations endorse these comments prepared by the Campaign for Alternatives to Isolated Confinement (CAIC), pursuant to the State Administrative Procedure Act in response to the Notice of Proposed Rule Making as published in the New York State Register on November 1, 2017.

We affirm the intent and attempt by Governor Cuomo and State Commission of Correction (SCOC) to limit the use of solitary confinement in New York jails through the proposed regulations, including the spirit of ensuring that all people in solitary confinement receive at least four hours out-of-cell per day and children and pregnant women at least six hours out-of-cell. At the same time, we believe that the failure of the Governor and SCOC to consult with people who are in solitary, have survived solitary, have had family members in solitary, or otherwise are advocates and experts on the topic, has resulted in poorly drafted proposed regulations that in many ways undermine the purpose of limiting solitary confinement. We hope that these and other public comments provided by the community, including people most harmed by solitary confinement and their allies, are used by the Governor and SCOC to improve the proposed regulations. We also urge the Governor and the SCOC to delay decision-making and hold public hearings on the topic of solitary confinement.

We believe that the Governor and SCOC should look to the Humane Alternatives to Long-Term (HALT) Solitary Confinement Act, A. 3080-Aubry / S. 4784-Parker, as the model to follow for the current regulations and should thus apply the provisions of HALT to both prisons and jails in its amended regulations. Specifically, we urge the SCOC to modify its regulations to:

- 1) **End the torture of solitary confinement for all people by imposing a limit of 15 consecutive days in solitary**, and 20 days total in a 60 day period (whereas the proposed regulations do not impose any time limit);
- 2) **Create more humane and effective alternatives, by expanding the amount of out-of-cell time** guaranteed to all people who are separated and ensuring that out-of-cell time involves **meaningful human contact and programs**;

- 3) **Restrict the criteria that can result in a person being placed in solitary** or otherwise separated to the most egregious conduct (whereas the current regulations do not put any limit on why someone can be sent to solitary);
- 4) **Ban certain groups of people from spending even one day in solitary confinement**, by expanding the type of protected categories of people and ensuring that the protections for those groups provide meaningful support;
- 5) Enhance **procedural protections, staff qualifications and capabilities**, and **transparency and accountability**, going far beyond the minimal internal reporting required by the proposed regulations; and
- 6) Apply all **protections to prisons as well as jails**.

Including these core components of HALT in the regulations for both prisons and jails will help end the torture of solitary for all people and bring New York in line with international standards and what other states have already done. Beyond the regulations, or if the regulations do not make these changes, the Governor should implement the provisions of HALT administratively and the Governor and New York legislature should pass HALT to enact these changes permanently into law to ensure that no person is ever again subjected to the torture of solitary confinement in New York prisons and jails.

Submitted by:

Amnesty International Group 27 - Brooklyn

Beacon Prison Action

Black & Pink NYC

Blank Forms

Community Service Society of New York

Decarcerate Tompkins County, Ithaca, NY

Fordham Law Public Interest Resource Center

Fred A. Levine, Law & Public Policy Consulting

Freedom Socialist Party

Hour Children

Ithaca Democratic Socialists of America, Ithaca DSA

Jim Owles Liberal Democratic Club

JustLeadershipUSA

Katal Center for Health, Equity, and Justice

Mary E. Buser, author of *Lockdown on Rikers*

Milk Not Jails

NAMI Buffalo & Erie County

National Action Network NYC Chapter Second Chance Committee

New York Annual Conference of the Methodist Church

NYC Jails Action Coalition

Rochester Prison Education Project

Rockland Coalition to End the New Jim Crow

Social Justice Committee at the UU Congregation at Shelter Rock

Social Workers Against Solitary Confinement

Southern Tier Independence Center

T'ruah: The Rabbinic Call for Human Rights

VOCAL-NY