



December 14, 2017

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Alfred E. Smith Building  
80 S. Swan Street, 12th Floor  
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**Re: CMC-44-17-00012-P “Confinement and Deprivation”**

Please accept the following as public comment from Critical Resistance New York City in response to the notice of proposed rulemaking to limit the use of solitary confinement in local jails.

Critical Resistance, founded in 2001, is a national organization with the mission of reducing the violence of imprisonment and building healthy, self-determined communities. As such, we have been heavily involved in organizing led by imprisoned people, including efforts to abolish solitary from the first California prisoner hunger strike in 2011 to the 30,000-strong strike in 2013. We understand that ending solitary in New York State will help change conditions of confinement and eliminate one kind of inhumane practice – one designed to keep imprisoned people from organizing for their own health, wellbeing, and freedom.

In our work we correspond by phone and letter with people imprisoned in the New York State system on a variety of different issues that affect their lives and the lives of their families and communities. For too many of those that we correspond with, solitary confinement is imposed at the discretion of Correction Officers and other staff and thereby perpetuates abuse and racial bias, amplifies staff violence and brutality, and persists without any meaningful oversight or intervention. We find that solitary confinement is used throughout the state for the most subjective and discriminatory purposes to magnify control over imprisoned people, often as a response to people attempting to protect themselves against abuse like through instances of questioning authority or submitting grievances.

For these reasons, Critical Resistance strongly opposes the limited scope of the proposed rule changes. Most upsetting is that, as is, the proposed regulations fail to apply to prisons, leaving thousands and thousands of people behind to suffer. Further, the proposed regulations fail to

provide transparency, fail to protect people particularly vulnerable to isolation, and fail to protect against discretionary and retaliatory uses of solitary as mentioned above.

We demand that any newly adopted rules provide real limits on the use of solitary confinement – absent its ultimate elimination. To take real steps toward ending the torture of solitary, Governor Cuomo and New York State must adopt the provisions of the Humane Alternatives to LongTerm (HALT) Solitary Confinement Act, A. 3080 / S. 4784 and we support advocate's calls for the adoption of several significant changes in particular:

- Require an explicit intervention where any separation beyond 15 days include at least 7 hours of out-of-cell time per day, with 6 hours of meaningful congregate programming;
- Stop solitary immediately for people aged 21 or younger and 55 or older, as well as those with mental health needs or physical disabilities, pregnant people and people who have recently given birth;
- Mandate procedural protections at disciplinary hearings and require all institutions to publish quarterly reports detailing the use of solitary and alternatives; and
- Apply to all prisons and jails in New York State.

The New York City Board of Correction amended the minimum standards for NYC correctional facilities in 2015 with the intention of placing multiple layers of limitations on the use of solitary confinement. While those rules were far more comprehensive and protective than those proposed now by SCOC, we are already seeing the growth of alternatives to punitive segregation that indefinitely isolate and bring about new forms of restrictions and abuse in the city's jail system. With this lesson in mind SCOC must commit to a stronger proposal.

Critical Resistance urges Governor Cuomo and the SCOC to end solitary confinement and to utilize this rulemaking process to move toward that goal.

Thank you for your attention.

Sincerely,

Critical Resistance New York City