The Honorable Andrew M. Cuomo  
Governor of New York State  
NYS State Capitol Building  
Albany, NY 12224  

December 12, 2017  

Re: End the Torture of Solitary Confinement  

Dear Governor Cuomo,  

I write on behalf of the Parole Preparation Project, which collaborates with and advocates for parole-eligible people serving life sentences in New York State prisons. We train volunteers to work alongside parole applicants, many of whom have spent decades in prison and have been repeatedly denied parole, despite their eligibility for release. We do our work in partnership with organizations and coalitions seeking deep, systemic change in the criminal legal system. We are writing to call on you to end the torture of solitary confinement for all people and provide humane and effective alternatives.

On November 1, 2017, you announced new regulations designed to limit the use of solitary confinement in all local jails. While we appreciate that these new rules permit at least 4 hours of daily out-of-cell time for people in solitary confinement, as well as at least 6 hours of daily out-of-cell time for pregnant women and children under 18 years old, we remain extremely concerned that they fall drastically short of what is necessary to curtail this abusive practice.

**Major concerns:**  
While the new rules articulate specific permissions around daily out-of-cell time for individuals in solitary, there is no requirement that those hours include meaningful human contact and programming, both of which are essential to the survival of people in confinement.

Extensive research has shown that isolated confinement causes rapid psychological, physical and social deterioration. Its devastating effects range from hallucinations to pathological insanity. In line with these findings, the U.S. Supreme Court and appellate courts across the country, have found vast violations of the Eighth Amendment rights of those who have endured extended periods of isolated segregation. We suggest that the Governor join the psychology and legal communities in recognizing the extremity of solitary confinement, especially when it fails to be paired with rehabilitative programming.

Furthermore, the proposed rules do not sufficiently limit the amount of time an individual can be held in solitary confinement. Currently people sent to isolation in New York State prisons spend months or years there; some individuals have been in solitary confinement in New York’s prisons for more than three decades. By continuing this inhumane and immoral practice, New York remains shamefully out of step with the entire United Nations General Assembly, which under the Nelson Mandela Rules, has denounced solitary confinement exceeding 15 days.
Additionally, there is precedent for strict time limits on solitary in the United States; in 2015 the State of Colorado determined that keeping an individual in solitary confinement longer than 15 days equated to torture. **Like both of these examples, New York State should place a maximum limit of 15 consecutive days in solitary or 20 days total in any 60-day period.**

Further, the **restrictions do not limit the basis for which an individual can be placed in solitary and left there indefinitely.** Jail administrators maintain full discretion to restrict out-of-cell hours for individuals placed in solitary for the sake of “safety, security, or good order,” effectively guaranteeing that people will remain in isolation for 23-24 hours a day. As the Economist pointed out in its December 2015 reporting on the New York Civil Liberties Union’s class-action lawsuit (from which these proposed regulations originated), “New York’s rate of solitary confinement, at 8%, is nearly double the national average, and prisoners often stay in SHU for months or years.” Granting broad discretion to jail administrators around the use of solitary confinement does nothing to curtail our state’s disproportionate use of this extreme practice in local jails.

Finally, although New York’s rate of solitary confinement is also present in all state prisons, the proposed regulations **only apply to local jails.** The people of New York, regardless of whether they are in local jails or high security prisons, equally deserve the “consistent level of quality and fairness” that the Governor advocated for in announcing these new regulations.

On the topics of quality and fairness, we’d ‘be remiss if we did not mention the disproportionate infliction of this punishment on Black and Latino people. Black people represent about 13% of all people in New York State, but 50% of those incarcerated in New York State, and nearly 60% of people held in long-term solitary confinement units. Solitary is just one piece of a broader racist and horrific system of incarceration in this state, and it requires profound changes.

**Reforms:**
To address these deep and serious concerns, we, alongside our partners in the Campaign for Alternatives to Isolated Confinement, are **calling on you to adopt several significant changes to the proposed regulations including:**

- Placing a maximum limit of 15 consecutive days in solitary or 20 days total in any 60 day period, in line with the Nelson Mandela Rules and Colorado’s regulations
- Requiring that any separation beyond 15 days must involve at least 7 hours out-of-cell per day, with 6 hours for congregate rehabilitative/therapeutic programming
- Banning even one day of solitary for people 21 and younger or 55 and older, people with mental health needs or physical disabilities, pregnant women & new mothers
- Enhancing procedural protections at proceedings that can result in solitary, and requiring jails to issue quarterly report details on the use of solitary and alternatives

Applying these regulations to all jails and all prisons in New York State

If the new regulations do not adopt all of the above mentioned points and enshrine them into law, then **we are calling on you to pass the HALT Solitary Confinement Act, A.3080/S.4784,** which offers solutions to the torturous practice of solitary confinement. **First, ban solitary confinement periods that exceed 15 days.** This will prevent the most damaging long-term psychological consequences that
are caused when solitary confinement is abused. **Second, provide meaningful restrictions on the bases for which solitary confinement can be bestowed.** This will directly curtail the unconstitutional practice of utilizing solitary confinement as a punitive measure in situations where it constitutes cruel and unusual punishment. **Third, ban the usage of solitary confinement in totality when the person is under age 18, over 55, or suffering from mental or physical disabilities.** Our children, elders, and most vulnerable civilians have no place in these extreme conditions in which they are at the highest risk of suffering long-term psychological damage.

In closing, changing the proposed regulations is not only the right and humane thing to do, it is a significant step in undoing the most torturous and racist practices of our criminal legal system. We appreciate your prompt attention and consideration in this matter.

Sincerely,

The Parole Preparation Project