

Severe Limitations of Governor Cuomo's Solitary Confinement Plan and the Need for the HALT Solitary Confinement Act July 2019

While Governor Cuomo has not yet released the text of any new regulations, much less implemented them, their limitations are already glaring. Some of the most glaring are listed below. We continue to demand passage of the HALT Solitary Confinement Act on the next day of the legislative session, even if that is in January. First, it is important to understand that the objective of HALT is to mandate a fundamental transformation of the way people are treated in Governor Cuomo's prisons and local jails. That is what we are fighting for, and that is what a majority of the Legislature supports. Instead, the leaders of the State legislature reached a deal with the Governor for potential administrative changes that would have a mere fraction of HALT's impact. We adamantly oppose the failure to bring HALT to a vote and we continue to organize for and demand passage of HALT. As Alicia Barraza, mother of the late Ben Van Zandt who died by suicide in solitary at Fishkill Prison, said: the campaign did 95% of the work, and the State legislature couldn't do the remaining 5%. Now, instead of a mandate for sweeping reforms, we have a press release promising new regulations from the Governor, who has been responsible for the solitary confinement practices that took Ben's life and so many others since he took office in 2011. (It must be noted that when a weakened compromise bill was brought to the Assembly on the day before session ended, the Assembly soundly rejected it and called for HALT's passage. Still a second backroom deal was then struck, this time taking the legislature out of it completely because it was known that there was no support for this weakened change).

Local Jails Excluded: These proposed regulations would have done nothing to help Kalief Browder, Layleen Polanco, or countless others who have lost their lives or their minds because of solitary while held in jail. Unlike HALT, our understanding is the proposed administrative changes will only apply to state prisons and not local jails. People all across the state -- predominantly people who are awaiting trial and presumed innocent -- are subjected to the torture of solitary confinement in local jails, for weeks, months, and years. The state must act to pass HALT and end this torture everywhere in the state, not just in the state prisons. Costs cited by the Governor are both misleading and no excuse for torture.

Torturous Lengths of Time in Solitary: HALT imposes a 15 day limit on solitary confinement in line with international standards that prohibit solitary beyond 15 days because it otherwise amounts to torture. The reported plan will "ultimately" lead to a 30 day limit, unless a new Governor rolls back the regulation. That in and of itself is double the length of time considered torture. "Ultimately" leaves open when these limitations will be put in place and how many people will remain in solitary for months, years, and decades before then. If the plan is the same as the Governor's original budget proposal this year, for the next two years, there will be NO TOTAL TIME LIMIT whatsoever, then there will be a 90 day time limit two years from now, then a 60 day limit, and "ultimately" a 30-day limit on solitary *in three years*, April 2022. Does [Sean Ryan](#) (and others like him), who has been in solitary confinement for 25 years and whose mother Arlene Normyle has been active in the #HALTsolitary campaign, have to spend the next two years still in solitary? New York must end solitary beyond 15 days for all people.

Leaving Some of the Most Vulnerable Behind: The reported plan leaves behind groups of people most vulnerable to be particularly harmed by solitary. The plan reportedly will protect “adolescents, pregnant women, and the disabled,” groups that already are supposed to receive some protection under the *Peoples* settlement. HALT would also ban solitary for young people aged 18-21, elderly people, and people with pre-existing mental illness. Young people and people with mental health conditions are disproportionately sent to solitary, and while solitary is torture for all people, it can have particularly devastating effects on a young person whose brain is still developing or a person with mental health needs that are exacerbated by being alone in a box. All of these groups of people should be banned from any length of time in solitary.

Solitary by Another Name: The alternative-to-solitary units referenced in the joint statement are likely to be very restrictive environments that, at least in some circumstances will likely mirror solitary confinement, and our understanding is there will be no total time limit for how long people can be warehoused in these units. The Governor’s original budget proposal had only included 5 hours out of cell per day, and not every day of the week. That means people will still be held in full 22-24 hour a day solitary some days every week, and will still be locked down at least 19 hours the other days. HALT requires 7 hours a day, 7 days a week, with access to meaningful congregate programming and human interaction. Horrific recent news shows how the Governor’s units will likely continue to inflict isolation that will cause devastating harm. While [Layleen Polanco](#) was in a purported alternative unit to solitary, she was spending 20 hours a day locked down in her cell, and even after her death, it was reported the city department of corrections continues to try to claim she was not in solitary. Similarly, a [17-year-old child with severe mental health needs](#) spent 7 months in what was supposed to be an alternative to solitary in one of New York’s state prisons, but meant he generally had only four hours a day out of cell five days a week, and two hours out of cell on the weekends, and for one ten day stretch he never left his cell - spending 24 hours a day in solitary. A judge found that his conditions led him to engage in “self-mutilating behavior, cutting himself on the arm in an apparent cry for help.” These tragedies are indicative of what will likely result from having compromise alternatives put forward by the Governor rather than passing and properly implementing HALT.

Having to Choose Safety or Torture: The joint statement did not mention anything about protective custody and the Governor’s original proposal did not include any restrictions on the use of solitary confinement for purposes of protective custody, whether voluntary or involuntary. No person should have to choose between being safe and being tortured. Yet in New York right now, protective custody usually means being held 22 to 24 hours a day in solitary confinement. HALT would prohibit that, and prohibit all prolonged solitary confinement, regardless of its name, instead ensuring all people have access to programs and services.

Lack of Oversight or Even Transparency: The joint statement did not mention anything about outside oversight over the use of solitary -- as is included in HALT -- and the Governor’s original budget proposal also did not provide for such oversight. Given the long history of how solitary confinement is used and abused by the department and its employees, it is imperative that there be oversight by entities outside of DOCCS to ensure proper implementation of any restrictions.