



## **MEMORANDUM IN SUPPORT**

### **Humane Alternative to Long-Term (HALT) Solitary Confinement Act**

#### **A. 2277A (Aubry) / S. 2836 (Salazar)**

March 1, 2021

**New York County Defender Services (NYCDS), a public defender office in Manhattan that represents thousands of indigent people accused of crimes every year, strongly supports A.2277A/S.2836, the Humane Alternatives to Long-Term (HALT) Solitary Confinement Act.**

**The HALT Act reforms the use of solitary confinement in New York State jails and prisons by introducing more humane alternatives, ending long-term isolation, excluding vulnerable populations, and increasing out-of-cell time and rehabilitative programming.**

New York State must end the torture of solitary confinement. The practice causes severe psychological trauma and serves no rehabilitative purpose. New York currently imposes such isolated confinement far too broadly, routinely, and frequently in response to non-violent conduct, and for far too long a period of time—often months and years and in some cases, decades.

#### **WHAT DOES THE HALT ACT DO?**

The HALT solitary confinement bill will limit isolated confinement to 15 consecutive days, or a total of 20 days in any 60-day period. Any person held in solitary for more than 15 consecutive days will have to be transferred to a Residential Rehabilitation Unit (RRU) for no longer than one year where they will receive therapy, support, six hours per day of out-of-cell programming, and 1 hour per day of out-of-cell recreation. At least every 60 days, a person's placement in RRU will be reviewed in order to determine if they should be released.

The HALT Act requires corrections and hearing officers to receive substantial relevant training related to the reform. The bill will ensure long overdue transparency, requiring prisons to publish data on the numbers of people in isolation and RRU's. Moreover, the bill would restrict criteria for placement in solitary and ban the use of solitary on vulnerable populations, including people under 21, people over 55, mentally ill people, pregnant or postpartum women, and people caring for a child.

HALT would make New York State a leader in treating people in our jails and prisons more fairly and humanely. We strongly support the HALT Act and implore the legislature to pass it and the Governor to sign it this session.

## WHY MUST WE END SOLITARY?

Thousands of New Yorkers are suffering in solitary confinement cells in jails and prisons across our state right now, and the vast majority of them are people of color. 5.5 percent of people in jail or prison in our state are in isolated confinement, a rate higher than the national average of 4.4 percent. Black people represent 13 percent of all New Yorkers, but they make up 50 percent of incarcerated people and 60 percent of people held in long-term solitary confinement units. At Clinton, a prison near the Canadian border where only one of the 998 guards is African American, incarcerated Black people were nearly four times as likely to be sent to isolation as whites, and they were held there for an average of 125 days, compared with 90 days for whites.<sup>1</sup> These racial disparities are constitutionally problematic, to say the least, and demand immediate redress by passage of HALT.

Solitary confinement causes extreme psychological harm and trauma. 29 percent of people in prison and 22 percent of people in jails suffering with symptoms of serious psychological distress had spent time in solitary in the past 12 months.<sup>2</sup> Depriving incarcerated people of adequate human contact and sensory stimulation results in adverse consequences that continue post-isolation and make adjusting to the general prison population as well as to mainstream society more challenging.<sup>3</sup> For example, people put in solitary confinement are more likely to harm themselves or to commit suicide than other incarcerated people. According to one study, people assigned to solitary confinement were 3.2 times more likely to commit an act of self-harm during their incarceration compared to those never assigned to solitary.<sup>4</sup> Incarcerated people who have been in solitary confinement also experience oversensitivity to stimuli, disturbed sleep, slowing of mental processing, chronic headaches, and increased heartbeat which make them more irritable and likely to overreact.<sup>5</sup> Not surprisingly, evidence suggests that solitary confinement is not an effective deterrent to misbehavior and may actually make people more prone to misbehave or to act violently towards themselves or others.<sup>6</sup>

We want people returning home from prison to be better equipped to thrive and succeed in their communities, not more traumatized and more damaged by the torture they suffered inside. Right now, hundreds of New Yorkers are released directly from extreme isolation to the outside

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<sup>1</sup> Schwirtz, M., Winerip, M., Gebeloff, R. (2016). The Scourge of Racial Bias in New York State's Prisons. *New York Times*. <https://www.nytimes.com/2016/12/03/nyregion/new-york-state-prisons-inmates-racial-bias.html>.

<sup>2</sup> Beck, A.J. (2015). Use of Restrictive Housing in U.S. Prisons and Jails, 2011-12. *Bureau of Justice Statistics*. <https://www.bjs.gov/content/pub/pdf/urhuspj1112.pdf>

<sup>3</sup> Corcoran, M.M. (2015). Effects of Solitary Confinement on the Well Being of Prison Inmates. *OPUS*, 37-39. <https://steinhardt.nyu.edu/appsych/opus/issues/2015/spring/corcoran>

<sup>4</sup> Kaba, F., Lewis, A., Glowa-Kollisch, S., Hadler, J., Lee, D., Alper, H.,... Venters, H. (2014). Solitary Confinement and Risk of Self-Harm Among Jail Inmates. *PubMed*. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3953781/>

<sup>5</sup> Corcoran, M.M. (2015). Effects of Solitary Confinement on the Well Being of Prison Inmates. *OPUS*, 37-39. <https://steinhardt.nyu.edu/appsych/opus/issues/2015/spring/corcoran>

<sup>6</sup> Cole, K.M. III. (1972). Constitutional Status of Solitary Confinement. *Cornell Law Review*, 57(3), 476-489. <https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=3990&context=clr>

community each year; very few receive any educational, rehabilitative programming, or transitional services to help them prepare for their return to society, increasing rates of recidivism. Passage of the HALT Act would mean that fewer incarcerated people are subject to solitary confinement, and that when they are, it is for shorter periods of time and with increased out-of-cell programming. As public defenders, we view ending solitary confinement as a critical component to halting the revolving door of arrest and imprisonment for vulnerable populations.

States that have already taken steps to limit isolated confinement show that ending solitary makes jails and prisons safer while saving taxpayer money. In 2007, Mississippi instituted more objective criteria for admission to solitary and release from solitary, a mandated 90-day review of incarcerated people in solitary, and a written plan outlining how each person in solitary could secure release.<sup>7</sup> These reforms resulted in a decline in the number of prisoners in solitary confinement and a nearly 70 percent concurrent decline in the number of serious, and sometimes violent, incidents.<sup>8</sup> 3 years later in 2010, Maine improved living conditions in solitary units, increased access to mental health services for incarcerated people in solitary, stricter criteria for admission to solitary, and mandatory training for correctional officers.<sup>9</sup> As a result of these changes, the decrease in funding Maine needed for solitary confinement is now being used towards programming and facilities.<sup>10</sup> Colorado, following the appointment of Rick Raemisch as the Colorado prisons director in 2013, ended the practice of long-term solitary confinement exceeding 15 consecutive days and replaced solitary confinement units with de-escalation rooms for people with mental illness.<sup>11</sup> Raemisch instituted these reforms after spending a day in solitary confinement himself. Solitary confinement reforms are possible and can have innumerable productive effects such as cost benefits and safety improvements. The HALT Act would provide the most robust protections for people in the country and would lead to similar cost-savings and improved safety benefits for incarcerated people and staff.

Solitary confinement is inhumane and a relic of the past century. More than 115 lawmakers have signed on to the bill as co-sponsors, but we need leadership to put the bill on the calendar for a vote. New York County Defender Services urges you to pass the HALT Act today.

**Questions?** Contact Andrea Nieves, Senior Policy Attorney, [anieves@nycds.org](mailto:anieves@nycds.org).

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<sup>7</sup> Kupers, T.A., *et al.* (2009). Beyond Supermax Administrative Segregation: Mississippi's Experience Rethinking Prison Classification and Creating Alternative Mental Health Programs. *Criminal Justice and Behavior*. [https://www.aclu.org/sites/default/files/field\\_document/asset\\_upload\\_file359\\_41136.pdf](https://www.aclu.org/sites/default/files/field_document/asset_upload_file359_41136.pdf)

<sup>8</sup> Simms, A.A. (2016). Solitary Confinement in America: Time for Change and a Proposed Model of Reform. *Penn Law: Legal Scholarship Repository*. <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1198&context=jlasc>

<sup>9</sup> Simms, A.A. (2016). Solitary Confinement in America: Time for Change and a Proposed Model of Reform. *Penn Law: Legal Scholarship Repository*.

<sup>10</sup> ACLU Maine. (2013). Change is Possible: A Case Study of Solitary Confinement Reform In Maine. [https://www.aclumaine.org/sites/default/files/field\\_documents/aclu\\_solitary\\_report\\_webversion.pdf](https://www.aclumaine.org/sites/default/files/field_documents/aclu_solitary_report_webversion.pdf)

<sup>11</sup> Simms, A.A. (2016). Solitary Confinement in America: Time for Change and a Proposed Model of Reform. *Penn Law: Legal Scholarship Repository*. <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1198&context=jlasc>