



Submission to the United Nations  
Universal Periodic Review of

United States of America

Third Cycle  
36<sup>th</sup> Session of the UPR  
Human Rights Council  
May 2020

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Date Organization Established: 2012



## SUMMARY

1. The New York State Campaign for Alternatives to Isolated Confinement (CAIC) submits the following comments to the United Nations Universal Periodic Review of the United States of America, focusing on the flagrant violations of international human rights law that are being perpetrated through local, state, and federal incarceration policies and practices. While CAIC believes that the incarceration system as a whole and so many of its component parts - including violent and deadly policing, rampant correction officer brutality, denial of parole and other forms of release, extreme sentences, denial of access to higher education and voting rights to people incarcerated, criminalization of poverty and addiction and mental health needs, and racism infusing the entire system - these comments will focus on one particular aspect, namely the torture of solitary confinement. These comments will focus on the infliction of solitary confinement in New York State as one example of how widespread and horrific the use of solitary confinement is at the local, state, and federal level across the United States.
2. Led by people who have survived solitary or had family members inside, CAIC is a community of people who have survived solitary, family members of people incarcerated, concerned community members, advocates, health/mental health professionals, and people in the human rights, faith, and social justice communities throughout New York State, including over 200 supporting organizations and thousands of members. Since its 2012 founding, CAIC has carried out grassroots organizing and advocacy in NY to: empower communities most harmed by solitary and incarceration, educate people and raise consciousness about solitary and the incarceration system as a whole, mobilize people across the state to engage in efforts to end this torture, and push policymakers to make urgent and necessary changes. CAIC leads a #HALTsolitary campaign to urge New York State to enact the Humane Alternatives to Long-Term (HALT) Solitary Confinement Act. HALT, S.1623/A.2500, which currently has more than enough votes in both houses of the legislature to pass, would: limit solitary to no more than 15 days for all people in line with the UN Mandela Rules; ban it for people with mental health needs, young people, and others; restrict the criteria for who can be placed in solitary or alternatives; create more humane and effective alternatives; and increase transparency and accountability. The campaign is also urging New York City to completely ban the practice of solitary in all city jails (where the vast majority of people are held pre-trial and presumed innocent, and others are there for low-level misdemeanor convictions), and instead utilize proven alternatives that are the exact opposite of solitary, with full days out of cell and access to meaningful human engagement and congregate programs and services.

3. The information in this submission comes from many years and decades of investigation of the use of solitary confinement, including the gathering of information of and by people who have and/or are still subjected to this torture, family members who have loved ones in solitary or who have lost their loved ones to solitary, and organizations that have studied, monitored, and/or investigated the use of solitary confinement.

## BACKGROUND

1. Solitary confinement is torture. It has long been demonstrated to cause devastating physical, psychological, and emotional harm.<sup>1</sup>
2. The United States' use of solitary confinement by federal, state, and local governments - including New York State and its localities - blatantly violates international human rights law, including among other provisions article 7 of the International Covenant on Civil and Political Rights,<sup>2</sup> and articles 1, 2, 16 and others of the Convention against Torture.<sup>3</sup>
3. The ICCPR states that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." The Convention against Torture defines torture as, among other things, "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as . . . punishing him for an act he or a third person has committed or is suspected of having committed, . . . , or for any reason based on discrimination of any kind, when such pain or suffering is inflicted

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<sup>1</sup> See, e.g., <https://www.timesunion.com/opinion/article/Stop-incarcerating-the-mentally-ill-in-solitary-13808108.php>; <http://www.newyorker.com/news/news-desk/kalief-browder-1993-2015>; James Gilligan and Bandy Lee, *Report to the New York City Board of Correction*, p. 3, Sept. 5, 2013, available at: <http://solitarywatch.com/wp-content/uploads/2013/11/Gilligan-Report-Final.pdf>; Stuart Grassian, *Psychiatric Effects of Solitary Confinement*, *Journal of Law & Policy*, Vol. 22:325 (2006), available at: [https://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1362&context=law\\_journal\\_law\\_policy](https://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1362&context=law_journal_law_policy) ("Psychiatric Effects of Solitary"); Craig Haney, *Mental Health Issues in Long-Term Solitary and 'Supermax' Confinement*, 49 *Crime & Delinq.* 124 (Jan. 2003), available at: <http://www.supermaxed.com/NewSupermaxMaterials/Haney-MentalHealthIssues.pdf>; Stuart Grassian and Terry Kupers, *The Colorado Study vs. the Reality of Supermax Confinement*, *Correctional Mental Health Report*, Vol. 13, No. 1 (May/June 2011); Sruthi Ravindran, *Twilight in the Box: The suicide statistics, squalor & recidivism haven't ended solitary confinement. Maybe the brain studies will*, *Aeon Magazine*, Feb. 27, 2014, available at: <http://aeon.co/magazine/living-together/what-solitary-confinement-does-to-the-brain/>; Joseph Stromberg, *The Science of Solitary Confinement*, *Smithsonian Magazine*, Feb. 19, 2014, available at: <http://www.smithsonianmag.com/science-nature/science-solitary-confinement-180949793/#.Uwoq5RsSWaQ.email>; <https://citylimits.org/2019/02/12/cityviews-crisis-at-federal-jail-highlights-ongoing-crime-of-solitary-confinement/>; <https://static1.squarespace.com/static/5b2c07e2a9e02851fb387477/t/5c4f5c2970a6adb2776942ac/1548704820918/2018+Voices+of+Women+in+Isolated+Confinement.pdf>; <http://www.nydailynews.com/opinion/ny-oped-release-prisoners-from-solitary-20180817-story.html>; <https://www.democratandchronicle.com/story/opinion/guest-column/2018/02/23/end-long-term-solitary-confinement-new-york/364366002/>; <https://thecity.nyc/2019/06/rikers-empties-womens-solitary-unit-after-polanco-death.html>; <https://www.pbs.org/wgbh/frontline/article/what-does-solitary-confinement-do-to-your-mind/>; <https://www.syracuse.com/crime/2016/07/spitballs-and-throwing-items-50-days-in-solitary-confinement-for-auburn-teen.html>; <https://www.nydailynews.com/new-york/ny-solitary-confinement-injunction-20190619-wotutt2msvbsfegpbdyj232zsu-story.html>.

<sup>2</sup> <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

<sup>3</sup> [https://treaties.un.org/doc/Treaties/1987/06/19870626%2002-38%20AM/Ch\\_IV\\_9p.pdf](https://treaties.un.org/doc/Treaties/1987/06/19870626%2002-38%20AM/Ch_IV_9p.pdf).

by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.” In turn, CAT calls upon each State Party to take effective measures to prevent acts of torture and other cruel, inhuman, or degrading treatment or punishment in any territory under its jurisdiction.

4. In 2011, the United Nations Special Rapporteur on Torture concluded that “any imposition of solitary confinement beyond 15 days constitutes torture or cruel, inhuman or degrading treatment or punishment” and called for “an absolute prohibition” on solitary beyond 15 days *for all people*. The Special Rapporteur also called for a ban on solitary if imposed: as punishment or disciplinary sanction for *any length of time*, or on children or people with mental health needs for *any length of time*, or indefinitely, or *during pre-trial detention*<sup>4</sup> (emphasis added).
5. The UN Special Rapporteur specifically found that New York State was in violation of international obligations, and urged New York State to adopt the HALT Solitary Confinement Act.<sup>5</sup> The Special Rapporteur concluded that: “The HALT Solitary Confinement Act reflects both safe and effective prison policy and respect for human rights and brings New York prisons and jails into alignment with international law and human rights norms. It should become law in New York State, and serve as a model for change across the United States. This legislation, along with future reforms and advancements, will help bring a timely end to the pervasive use of solitary confinement in New York State prisons and jails and insure that people held there are guaranteed the necessary protections against torture and ill-treatment.”
6. In line with the 2011 conclusions of the Special Rapporteur, in 2015 the United Nations Mandela Rules - adopted by the UN General Assembly (with the support of the United States) - prohibit solitary confinement beyond 15 days for all people, as well as indefinite solitary for all people, solitary of any length for people with physical or mental health needs that would be exacerbated by solitary, and solitary of any length for women and children.<sup>6</sup>
7. Despite these clear prohibitions on the use of solitary confinement beyond 15 days for all people in all circumstances and full prohibition on any length of time in solitary in many circumstances, the United States - including New York State - continues to inflict solitary confinement on scores of thousands of people, and subjects people to solitary for months, years, and decades.

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<sup>4</sup> United Nations General Assembly, Interim Report of the Special Rapporteur of the Human rights Council on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, p. 21, 23, Aug. 2011, available at: <http://solitaryconfinement.org/uploads/SpecRapTortureAug2011.pdf>.

<sup>5</sup> <http://nycaic.org/wp-content/uploads/2013/02/UN-Special-Rapporteur-on-Tortures-Statement-on-Solitary-in-NY-State.pdf>

<sup>6</sup> United Nations Standard Minimum Rules for the Treatment of [Incarcerated Persons] – otherwise known as the “Nelson Mandela Rules” or “Mandela Rules”, Rules 43-45, available at: [https://www.unodc.org/documents/justiceand-prison-reform/GA-RESOLUTION/E\\_ebook.pdf](https://www.unodc.org/documents/justiceand-prison-reform/GA-RESOLUTION/E_ebook.pdf).

8. New York State is a representative example of how the United States flouts international human rights standards with its use of solitary. Thousands of people are locked in solitary confinement each day, and tens of thousands each year. New York disproportionately locks Black and Latinx people in solitary, even in excess of the disproportionate targeting of Black and Latinx people by the incarceration system overall.
9. The sensory deprivation, lack of normal human interaction, and extreme idleness of solitary confinement can lead to intense suffering and severe damage. Over 30% of all suicides in New York prisons take place in solitary confinement.<sup>7</sup> A study conducted in New York City jails, written by authors affiliated with the New York City Department of Health and Mental Hygiene, and published in the American Journal of Public Health, found that people who were held in solitary confinement were nearly seven times more likely to harm themselves and more than six times more likely to commit potentially fatal self-harm than their counterparts in general confinement, after controlling for length of jail stay, serious mental illness status, age, and race/ethnicity.<sup>8</sup> We know that some people spending even a short number of days in solitary can lead to tragic consequences and even death.<sup>9</sup> As one of countless horrific examples, Bradley Ballard spent only six days in solitary confinement, endured horrific torture and neglect while there, and died as a result.<sup>10</sup>
10. Solitary confinement also fails to address, and often exacerbates, underlying causes of difficult behavior as people deteriorate psychologically, physically, and socially. In turn, solitary confinement also decreases institutional and community safety. Jurisdictions that have reduced solitary have seen a positive impact on safety for both incarcerated people and correction officers (*see more below*). Reductions in solitary also lead to greater safety in the outside community and decrease the likelihood people will return to jail or prison.<sup>11</sup>
11. Moreover, solitary causes great harm not only to the people subjected to it but to their families and communities as well. While someone who has not been in solitary or had a loved one in solitary cannot fully grasp the harm caused by this torture, reading about

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<https://static1.squarespace.com/static/5b2c07e2a9e02851fb387477/t/5c5b0007f4e1fc1092af0b30/1549467656168/CANY+Fact+Sheet+-+Solitary+.pdf>

<sup>8</sup> <https://solitarywatch.org/wp-content/uploads/2013/11/Gilligan-Report.-Final.pdf>

<sup>9</sup> <https://medium.com/@djj2125/new-york-city-pays-record-5-75-million-to-family-of-rikers-inmate-bradley-ballard-d41b7a678a57>; <https://www.timesunion.com/opinion/article/Stop-incarcerating-the-mentally-ill-in-solitary-13808108.php>

<sup>10</sup> <https://medium.com/@djj2125/new-york-city-pays-record-5-75-million-to-family-of-rikers-inmate-bradley-ballard-d41b7a678a57>.

<sup>11</sup> <https://www.prisonlegalnews.org/news/2018/jan/8/solitary-streets-studies-find-such-releases-result-higher-recidivism-rates-violent-behavior/>; <https://www.nytimes.com/roomfordebate/2012/12/18/prison-could-be-productive/punishment-fails-rehabilitation-works>.

people's own experiences in solitary,<sup>12</sup> hearing testimony<sup>13</sup> from people who survived solitary or had family members in solitary, or participating in a virtual reality solitary experience<sup>14</sup> can begin to give a glimpse into the horrors of this practice.

12. Solitary confinement is not only inhumane but also counterproductive. If people have to be separated from the general prison or jail population because they pose a serious risk of harm to the safety of others or themselves, there is no logical reason that they should be subjected to the extreme isolation of solitary confinement that will not only cause intense suffering and damage but also likely exacerbate what led the person to being separated and possibly make jails and outside communities less safe. Instead, appropriate treatment and access to meaningful human engagement and congregate programs and recreation must be provided. Specifically, people must be given many hours of out-of-cell time per day (equivalent to full days out of cell, every day), as well as access to meaningful human engagement and congregate programs and services aimed at addressing their underlying needs and the causes of their behaviors. In addition, there should be a prohibition on the use of restraints in alternative units (at least unless some very narrowly tailored individualized determination is made because of a specific immediate serious risk of harm). What is needed is a fundamental transformation from a focus on punishment, isolation, and deprivation, to a focus on accountability, rehabilitation, treatment, and empowerment. Any alternatives need to essentially be the opposite of solitary, not solitary by another name.
13. New York City and New York State themselves have had very positive examples – in both prisons and jails – of program-based units that actually address underlying causes of problematic behavior and lead to better outcomes for incarcerated people, staff, and for overall safety of institutions and the community. The Clinical Alternatives to Punitive Segregation (CAPS) unit on Rikers Island is a much more program-intensive, treatment supported, and empowerment-based alternative to solitary confinement that does not restrict the amount of out-of-cell time provided, utilizes de-escalation of difficult situations, and has greatly reduced the amount of violence and self-harm.<sup>15</sup> The Merle Cooper program in New York State prisons – now closed purportedly due to resource constraints – also provided a successful program-intensive, empowerment-based unit that involved complete separation from the rest of the prison population but no isolation of individual people. For people deemed at high risk of recidivism, the Merle Cooper program provided group sessions, intensive programming, peer-led initiatives, increased autonomy and responsibility, most of the day out of cell, and the ability to earn unlocked cells. Even though Clinton Correctional Facility is considered one of the most violent prisons in NY, while it was open (1977 to 2013) Merle Cooper had high levels of

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<sup>12</sup> <https://static1.squarespace.com/static/5b2c07e2a9e02851fb387477/t/5c4f5bd8562fa7fb256b550d/1548704749745/2017+Solitary+at+Southport.pdf>; <https://static1.squarespace.com/static/5b2c07e2a9e02851fb387477/t/5c4f5c2970a6adb2776942ac/1548704820918/2018+Voicesof+Women+in+Isolated+Confinement.pdf>.

<sup>13</sup> <https://www.facebook.com/NYCAIC/videos/425978351341182/?sfnsw=cl>

<sup>14</sup> <https://www.theguardian.com/world/ng-interactive/2016/apr/27/6x9-a-virtual-experience-of-solitary-confinement>

<sup>15</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4772202/>

reported safety, and near universal praise from correction officers, participants, and administrators.

14. Other states and countries have implemented program-based alternatives to solitary that have proven both more humane and more effective. For example, the Resolve to Stop the Violence Project (RSVP) in San Francisco jails immersed residents in an intensive program including most of the day out-of-cell, group discussions, classes, counseling, and meetings with victims of violence. RSVP resulted in a 25-fold reduction in violent incidents, five-fold reduction in rearrests for violent crimes, six-fold reduction in jail time, and cost savings.<sup>16</sup> Many European countries rarely utilize solitary confinement - and if used, only for very short periods - and instead have an intense focus on programming, connections to family and community, granting people autonomy and responsibility, creating conditions akin to life outside of incarceration, and preparation for returning home.<sup>17</sup>
15. On the other side, New York State and City also have plenty of examples of so-called alternative units that are, in practice, only solitary by another name.
16. Recently in New York City, as widely reported, Layleen Polanco's life was taken from her in solitary confinement. While Layleen was in a unit that was supposed to offer additional programming for people with mental health concerns sentenced to solitary confinement, she was spending at least 20 hours a day locked down in her cell. Even after her death, it was reported that the city Department of Correction (DOC) continued to claim she was not in solitary and counted out-of-cell hours as including an hour each for a shower, for the possibility of a visit (even if she didn't have one), and the possibility of a medical appointment (even if she didn't have one). She was completely isolated, and tragically she died.<sup>18</sup>
17. Recently in New York State, a 17-year-old child with severe mental health needs - E.L. - spent seven months in solitary confinement. Children in New York State prisons are already supposed to not be in solitary because of settled lawsuits. So E.L. was in what is supposed to be an alternative to solitary. But this is what an alternative looks like when it is actually solitary by another name: he generally had only four hours a day out of cell five days a week, and only two hours out of cell on the weekends, and for one ten day

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<sup>16</sup> <https://academic.oup.com/jpubhealth/article/27/2/149/1595844>;  
<https://www.ncbi.nlm.nih.gov/m/pubmed/15820997/>

<sup>17</sup> See, e.g., Ram Subramanian and Alison Shames, *Sentencing and Prison Practices in Germany and the Netherlands: Implications for the United States*, Oct. 2013, available at: <http://www.vera.org/sites/default/files/resources/downloads/european-american-prison-report-v3.pdf>; Jessica Benko, *The Radical Humaneness of Norway's Halden Prison*, *New York Times Magazine*, March 26, 2015, available at: [http://www.nytimes.com/2015/03/29/magazine/the-radical-humaneness-of-norways-haldenprison.html?\\_r=0](http://www.nytimes.com/2015/03/29/magazine/the-radical-humaneness-of-norways-haldenprison.html?_r=0) ; 3 See Erwin James, *The Norwegian prison where [incarcerated people] are treated like people*, *The Guardian*, Feb. 25, 2013, available at: <http://www.theguardian.com/society/2013/feb/25/norwegian-prison-inmates-treated-likepeople> (documenting conditions at Bastoy prison); Maurice Chammah, *Prison Without Punishment*, *The Marshall Project*, Sept. 25, 2015, available at: <https://www.themarshallproject.org/2015/09/25/prison-without-punishment>.

<sup>18</sup> <https://thecity.nyc/2019/06/rikers-empties-womens-solitary-unit-after-polanco-death.html>

stretch he never left his cell - spending 24 hours a day in solitary. As reported: “His conditions in the Adolescent Offender Segregation Unit (AOSU) got so bad that he began to react with self-mutilating behavior, cutting himself on the arm in an apparent cry for help.” A judge ruled that he had to be removed from these conditions because of the “irreparable harm” and devastating mental health impacts.<sup>19</sup>

18. Any alternatives to solitary must be real alternatives and not more isolation that causes death and destruction. As the RSVP program, Merle Cooper program, and others demonstrate, if the United States and individual states and localities are actually trying to create safety inside of their prisons and jails and in our communities, then the alternatives to solitary should in fact be close to the opposite of solitary – with full days out-of-cell and opportunities for meaningful, empowering, congregate programming.
19. Moreover, there is a longstanding history of New York State and local departments of corrections attempting to create solitary-like conditions in alternative units by another name, and warehousing people in these conditions for extensive periods of time. For example, currently, in New York City jails people are often held for many months in the very restrictive Enhanced Supervision Housing Units,<sup>20</sup> and in the New York State prisons people with serious mental health needs are left to languish for many years in the very restrictive alternative residential mental health treatment units.<sup>21</sup>
20. It is thus imperative that any form of alternatives must have clear, attainable, and short mechanisms for release. At a minimum, people should be able to be discharged from any alternative units if they: a) complete the length of their disciplinary sanction; b) complete whatever program plan was set up with them at the time they enter an alternative unit; c) are deemed ready for discharge by clinical and program staff during a periodic review; or d) they reach a hard and fast maximum total time limit in the alternative unit.
21. Additionally problematic is the fact that people are often sent to solitary for minor alleged rule violations and with broad discretion by corrections staff to lock anyone in solitary for almost any reason.
22. This broad discretion to impose solitary also exacerbates the racially discriminatory manner in which solitary is inflicted. Black people represent about 18% of all people in New York State, but 50% of those incarcerated in the state, and nearly 60% of people held in long-term solitary confinement units in the state. The *New York Times* documented in 2016 what people who have been inside have long known: solitary confinement is fueled by racism and imposed disproportionately against Black and Latinx

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<sup>19</sup> <https://www.nydailynews.com/new-york/ny-solitary-confinement-injunction-20190619-wotutt2msvbsfegpbdyj232zsu-story.html>

<sup>20</sup> <https://bds.org/bds-testifies-before-nyc-council-oversight-hearing-on-progress-in-closing-rikers/>

<sup>21</sup> <https://nyassembly.gov/write/upload/publichearing/000865/001525.pdf>

people.<sup>22</sup> Similarly in the city jails, a New York City Department of Health and Mental Hygiene study found that Black and Latinx people were less likely to receive appropriate mental health diagnoses and more likely to be subjected to solitary confinement.<sup>23</sup>

23. There should be strict restrictions on when a person can be separated from the general prison or jail population, such that any such separation is limited to the most serious and egregious conduct. People who engage in less serious rule violations do not require an alternative intensive rehabilitative and therapeutic intervention. Only those who truly pose a serious risk of harm to others should be separated so that resources can be focused on providing support to a small number of individuals who would actually benefit from the kind of intensive programmatic and therapeutic intervention that any alternative to solitary should entail.
24. Moreover, the processes resulting in solitary confinement are often arbitrary and unfair, involve under-equipped staff, and take place with little transparency or accountability. As noted above, correction officers or other staff can often write disciplinary tickets for the most minor of reasons, for false reasons, or due to racial or other bias. The New York State prisons and local jails are laden with staff brutality and other abuses.
25. At the next level, the hearings or administrative procedures that result in placement in solitary confinement are *not* conducted by judges or other supposedly non-biased neutral decision-makers, but rather by corrections staff. In New York State prisons, approximately 95% of the people who are charged with the most serious rule violations that can result in solitary confinement are found guilty,<sup>24</sup> and the processes are similar in the jails.
26. Further, the processes that lead people to solitary confinement or what happens to people while in solitary confinement often takes place essentially secretly, cut off from the outside world. Such a situation further creates an environment in which there is little oversight and no accountability and more opportunity for abuse.
27. At a minimum, people should have the opportunity to have legal representation – by lawyers, paralegals, other incarcerated people, or others – at any hearings or procedures that can result in placement in solitary (until it is ended) or any alternative units, and such procedures should be conducted by neutral decision-makers.
28. In addition, there should be public reporting on the use of solitary and alternatives, including a breakdown of everyone in any form of separation, such as by: (i) age; (ii)

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<sup>22</sup> Michael Schwartz, Michael Winerip and Robert Gebeloff, *The Scourge of Racial Bias in New York State's Prisons*, The New York Times, Dec. 3, 2016, available at: [https://www.nytimes.com/2016/12/03/nyregion/new-york-state-prisons-inmates-racial-bias.html?\\_r=0](https://www.nytimes.com/2016/12/03/nyregion/new-york-state-prisons-inmates-racial-bias.html?_r=0).

<sup>23</sup> Fatos Kaba et al., Disparities in Mental Health Referral and Diagnosis in the New York City Jail Mental Health Service, 105 Am. J. Pub. Health 1911-1916 (2015), available at: <http://ajph.aphapublications.org/doi/full/10.2105/AJPH.2015.302699>.

<sup>24</sup> <https://static1.squarespace.com/static/5b2c07e2a9e02851fb387477/t/5c5b0007f4e1fc1092af0b30/1549467656168/CANY+Fact+Sheet+-+Solitary+.pdf>

race; (iii) gender; (iv) mental health treatment level; (v) special health accommodations or needs; (vi) need for and participation in substance abuse programs; (vii) pregnancy status; (viii) continuous length of stay in solitary or alternative units as well as total length of stay in a given time period; (ix) number of days in solitary confinement (until it is ended); (x) a list of all incidents resulting in disciplinary sanctions by facility and the date of occurrence; (xi) the number of incarcerated persons in solitary confinement by facility (until it is ended); and (xii) the number of incarcerated persons in alternative units by facility.

## **RECOMMENDATIONS**

1. The United States, and all federal, state, and local prisons, jails, detention centers, and any other form of incarceration (whether publicly or privately run) should fully implement the Mandela Rules immediately, work toward the total abolition of solitary confinement, and instead utilize alternatives that are the exact opposite of solitary confinement, with full days out of cell and access to meaningful human engagement and congregate programming.
2. More specifically, the United States should require all federal prisons, immigration detention centers, and any other forms of federal detention to adopt the following, and should create policies and incentives for all state and local prisons and jails to carry out the following:
  - A) End solitary confinement for all people
  - B) Ensure that any alternatives to solitary are actually meaningful, humane, and effective alternatives (with full days out of cell and access to meaningful human engagement and congregate programming), and not isolation by another name
  - C) Create clear mechanisms of release from any alternatives to solitary
  - D) Substantially restrict who can be separated from the general prison or jail population
  - E) Enhance procedural protections against, reporting on, and independent oversight over the use of any forms of separation
3. To serve as examples for the rest of the country on how to move toward those goals, New York State must enact the HALT Solitary Confinement Act, S.1623/A.2500, and New York City should end solitary completely.
4. The HALT Solitary Confinement Act has majority support in both houses of the state's legislature. The bill needs to be brought to a vote, passed, and enacted so that every prison and jail in New York State has: a limit on solitary of no more than 15 days for all people, in line with the UN Mandela Rules; a ban on solitary for people with mental health needs, people aged 21 and younger or 55 and older, and others; restricted criteria for who can be placed in solitary or alternatives to the most egregious conduct; more

humane and effective alternatives (with at least 7 hours out of cell per day and access to meaningful human engagement and congregate programming); and increased transparency and accountability.

5. For New York City's jails, where the vast majority of people are held pre-trial and presumed innocent, others are there for low-level misdemeanor convictions, and many are in jail due to mental illness, substance addiction, poverty, and other vulnerabilities, solitary should be prohibited altogether, particularly given that the UN Special Rapporteur has called for a complete ban on solitary during pre-trial detention.
6. Beyond ending the torture of solitary confinement, the United States - including New York State - must end the urgent human rights and racial justice crises created by and exacerbated by the incarceration system as a whole. The United States - including New York State - must make bold and dramatic changes in order to decarcerate, promote racial justice through healing and community empowerment, and shift from an extreme punitive approach (rooted in a racist system) to a public health and empowerment approach.
7. As some examples of immediate policy changes to begin this necessary shift,<sup>25</sup> the United States - including New York State - must reduce prison sentence lengths, release more people on parole who have demonstrated their transformation, release readiness, and/or low risk to society, restore access to higher education and full voting rights to people while they are incarcerated, end police and correction officer violence and killings, expand community-based care for mental health needs and substance use, and adopt meaningful alternatives to incarceration and restorative and transformative justice.

## Conclusion

There are growing calls across the United States (joining the longstanding calls internationally) to end the torture of solitary confinement.

As a representative example, major presidential candidates have been calling for an end to solitary. Senator Sanders called for an end to solitary confinement, calling it “a form of torture. It is unconstitutional, plain and simple.”<sup>26</sup> Sen. Elizabeth Warren said: “solitary confinement is cruel and inhumane. We must end this practice.”<sup>27</sup> Sen. Corey Booker has said: “[s]olitary confinement is torture. It is an archaic, damaging, and inefficient practice that has been proven to have irreversible effects. ... [T]his practice is wholly unjust and leaves the incarcerated worse off.”<sup>28</sup> Beto O'Rourke: “let's absolutely end solitary confinement.”<sup>29</sup> Pete Buttigieg will “[r]educ[e] use of solitary confinement, including abolishing its prolonged use” (which is defined

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<sup>25</sup> <https://nyassembly.gov/write/upload/publichearing/000957/001758.pdf>.

<sup>26</sup> <https://twitter.com/berniesanders/status/1163246701743726592?lang=en>.

<sup>27</sup> <https://twitter.com/ewarren/status/1156982642996326400>.

<sup>28</sup> [https://www.booker.senate.gov/?p=press\\_release&id=957](https://www.booker.senate.gov/?p=press_release&id=957).

<sup>29</sup> <https://www.youtube.com/watch?v=vekojdqDQEE>.

internationally as beyond 15 days).<sup>30</sup> Joe Biden will “start by ending the practice of solitary confinement, with very limited exceptions such as protecting the life of an imprisoned person.”<sup>31</sup>

These calls from the presidential candidates follow longstanding calls in New York State, nationwide, and internationally, including from the New York City Council,<sup>32</sup> President Obama,<sup>33</sup> the Pope,<sup>34</sup> Supreme Court Justice Kennedy (conurrence starts on p. 33),<sup>35</sup> the Texas prison guards union,<sup>36</sup> NJ Legislature,<sup>37</sup> the NY Catholic Conference,<sup>38</sup> NY Bishop Scharfenberger,<sup>39</sup> the UN Special Rapporteur on Torture,<sup>40</sup> the NY Association of Psychiatric Rehabilitation Services,<sup>41</sup> the Mental Health Association of NYS and its individual chapters across the state, over 1,000 New York State mental health professionals,<sup>42</sup> over 100 leading faith leaders across the state,<sup>43</sup> the Tompkins County Legislature, Vera Institute of Justice,<sup>44</sup> Working Families, Citizen Action, the New York Civil Liberties Union,<sup>45</sup> Human Rights Watch,<sup>46</sup> Amnesty International, Indivisible, over 200 organizations across New York State,<sup>47</sup> and countless others in the press, public, and government. Over 130 New York State legislators also now specifically support the HALT solitary confinement Act, including 99 New York State Assembly Members who voted to pass HALT in 2018, 79 current Assembly cosponsors, 34 New York State Senate cosponsors, and additional Senators and Assemblymembers who committed to

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<sup>30</sup> <https://peteforamerica.com/issues/>.

<sup>31</sup> <https://joebiden.com/justice/>.

<sup>32</sup> <https://queenseagle.com/all/council-resolution-halt-solitary-act-dromm-aubry-johnson>

<sup>33</sup> [https://www.washingtonpost.com/opinions/barack-obama-why-we-must-rethink-solitary-confinement/2016/01/25/29a361f2-c384-11e5-8965-0607e0e265ce\\_story.html](https://www.washingtonpost.com/opinions/barack-obama-why-we-must-rethink-solitary-confinement/2016/01/25/29a361f2-c384-11e5-8965-0607e0e265ce_story.html).

<sup>34</sup> <http://solitarywatch.com/2014/10/26/pope-francis-denounces-solitary-confinement-calls-for-prison-conditions-that-respect-human-dignity/>.

<sup>35</sup> [https://www.supremecourt.gov/opinions/14pdf/13-1428\\_1a7d.pdf](https://www.supremecourt.gov/opinions/14pdf/13-1428_1a7d.pdf).

<sup>36</sup> <https://www.texasobserver.org/texas-prison-guard-union-calls-curtailment-solitary-confinement-death-row/>.

<sup>37</sup> [http://www.slate.com/blogs/xx\\_factor/2016/10/24/new\\_jersey\\_legislature\\_passes\\_bill\\_limiting\\_solitary\\_confinement.html](http://www.slate.com/blogs/xx_factor/2016/10/24/new_jersey_legislature_passes_bill_limiting_solitary_confinement.html).

<sup>38</sup> <http://www.nyscatholic.org/wp-content/uploads/2016/02/2016-LEGISLATIVE-AGENDA-HALT-Act-FINAL.pdf>.

<sup>39</sup> <http://www.timesunion.com/tuplus-opinion/article/Albany-bishop-Solitary-confinement-needs-reform-7238837.php>.

<sup>40</sup> <http://nycaic.org/wp-content/uploads/2013/02/UN-Special-Rapporteur-on-Tortures-Statement-on-Solitary-in-NY-State.pdf>.

<sup>41</sup> <https://www.timesunion.com/opinion/article/Viewpoint-Let-s-lead-the-way-on-solitary-13969876.php>;

<http://www.nyaprs.org/e-news-bulletins/2017/015454.cfm>.

<sup>42</sup> <https://www.syracuse.com/state/2019/06/new-york-mental-health-advocates-push-for-solitary-confinement-rules.html>

<sup>43</sup> <https://www.nystateofpolitics.com/2019/05/faith-leaders-push-for-ending-solitary-confinement/>

<sup>44</sup> <https://www.vera.org/newsroom/statement-from-vera-supporting-the-humane-alternatives-to-long-term-halt-solitary-confinement-act>

<sup>45</sup> <https://www.nyclu.org/en/legislation/humane-alternatives-long-term-halt-solitary-confinement-act>

<sup>46</sup> <https://www.hrw.org/news/2019/04/30/human-rights-watch-memo-support-new-york-state-halt-solitary-confinement-act>; <https://www.hrw.org/news/2019/05/29/my-father-served-over-month-solitary-confinement>

<sup>47</sup> <http://nycaic.org/campaign-members/>.

vote for HALT. From Colorado<sup>48</sup> to North Dakota<sup>49</sup> to Washington<sup>50</sup> to Connecticut to Maine to Mississippi to North Carolina, other states – while still having challenges and needing greater change – have dramatically reduced the use of solitary confinement and seen positive outcomes, while other countries rarely if ever use this inhumane and counter-productive practice and have much better outcomes for all<sup>51</sup>.

The people of the United States can wait no longer for this torture to stop. New York State and New York City must lead the way in ending solitary confinement and creating more humane and effective alternatives that can serve as an example across the country. The deaths of Layleen Polanco, Kalief Browder, Bradley Ballard, Benjamin van Zandt, and countless others, and the destructive impact on thousands of people in the New York State prisons and jails over many years, demand that New York State and New York City - and the United States as a whole - end this horrific and deadly practice once and for all. Eliminating solitary confinement would have tremendous benefits for people who are currently incarcerated and their families and communities, and for New York City, New York State, and the entire country. Ultimately, we urge every jurisdiction in the United States to end solitary and make the other interconnected necessary changes to ensure the health, safety, and well-being of all of our fellow community members.

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<sup>48</sup> Rick Raemisich, *Why We Ended Long-Term Solitary Confinement in Colorado*, Oct. 12, 2017, available at: <https://www.nytimes.com/2017/10/12/opinion/solitary-confinement-colorado-prison.html>.

<sup>49</sup> Dashka Slater, *North Dakota's Norway Experiment*, Mother Jones, July/Aug. 2017, available at: <http://www.motherjones.com/crime-justice/2017/07/north-dakota-norway-prisons-experiment/>.

<sup>50</sup> *More Than Emptying Beds: A Systems Approach to Segregation Reform (Washington State)* (2016), available at: <https://www.bja.gov/publications/MorethanEmptyingBeds.pdf>

<sup>51</sup> See, e.g., <http://archive.vera.org/sites/default/files/resources/downloads/european-american-prison-report-v2.pdf>; <http://solitaryconfinement.org/uploads/DeepCustodyShalevAndEdgar.pdf>.