



**BROOKLYN
DEFENDER
SERVICES**

MEMORANDUM OF SUPPORT

The H.A.L.T. Solitary Confinement Act

(A. 3080B - Aubry/S. 4784A - Parker)

March 8, 2018

Brooklyn Defender Services (BDS) strongly supports the Humane Alternatives to Long Term (HALT) Solitary Confinement Act (A. 3080B / S. 4784a). BDS appreciates the inclusion of HALT in Speaker Heastie's and the Assembly Majority's criminal justice agenda this year.

BDS provides multi-disciplinary and client-centered criminal defense, family defense, immigration, civil legal services, social work support and advocacy to more than 30,000 indigent Brooklyn residents every year. Of this annual caseload, approximately 6,000 are incarcerated at some point during the pendency of the case and brought into the custody of the New York City Department of Correction (DOC). Those who are sentenced serve time in New York State Department of Corrections and Community Supervision (DOCCS) prisons or, for sentences of a year or less, on Rikers Island. Whether in pre-trial detention because they cannot afford the bail set by the judge at the request of the prosecutor or serving a sentence, our incarcerated clients may be subject to the torture of solitary confinement. In state prisons, they may be in solitary confinement indefinitely. New Yorkers are regularly confined in elevator-sized cells without any meaningful human interaction or access to programs for months, years and even decades with no viable due process protections—and no clear way to get out, sometimes until their prison sentence is up and they are placed on a bus back to the community.

HALT is the *only* bill that will end the torture of solitary for all New Yorkers, and BDS fully supports its passage. It also has the largest base of support within Legislature and across the state. A majority of Assembly Members now support HALT and a growing list of State Senators support it, as well.

Decades of social science research have demonstrated that solitary confinement causes immense harm to marginalized individuals, families, communities, correctional staff and others, all with no public safety benefits. Indeed, more than 40% of all suicides in New York State prisons in

2014 and 2015 occurred in solitary confinement, though approximately 9% of the prison population was confined there. Shockingly, many New Yorkers who attempt suicide while incarcerated are subsequently punished with additional time in ‘the Box.’ We must end this torture and replace it with humane and effective alternatives.

Frankly, our country has known that solitary confinement is inhumane and ineffective at least since 1890, when the US Supreme Court found in *In Re Medley* that placement in solitary confinement caused extreme and long-term harm. The Court wrote that a “considerable number of the [people in solitary] fell, after even a short confinement, into a semi- fatuous condition, from which it was next to impossible to arouse them, and others became violently insane; others still, committed suicide; while those who stood the ordeal better were not generally reformed, and in most cases did not recover sufficient mental activity to be of any subsequent service to the community.”¹ Many survivors of solitary confinement are leading the campaign against it, but they are the first to say that the scars of their experiences last a lifetime. We must not wait another year to act. The time to end this torture is now.

Public defenders and our social work staff have a unique perspective on solitary confinement, as we see our clients in isolation decompensate in successive meetings and court appearances, losing the ability to participate in their own defense. At the very least, the extreme anguish only increases the pressure to plead guilty that is inherent to pre-trial detention, regardless of guilt or innocence.

Corrections officials across the country are recognizing what incarcerated people and their families have said for decades: Solitary confinement does not make us safer.² It does not address the root causes of any problematic behavior and often exacerbates them, particularly for those with mental health issues. Moreover, because it is most often used for minor, non-violent infractions, time in solitary confinement can create violent behaviors where none previously existed. Crucially, reductions in solitary elsewhere have a direct impact on reducing violence. For example, Mississippi, working with the National Institute of Corrections, reduced its solitary population by more than 75%, resulting in a 50% reduction in prison violence.³ The President of the correction officers’ union chapter in Huntsville, Texas told the *New York Times* that solitary confinement is ineffective, saying, “We really need to focus a lot more on behavior modification and giving officers more tools to manage these prison populations. When you take everything away from prisoners, you have nothing to manage them with. And they can become very dangerous when they have nothing to lose.”⁴ Certainly, there are individuals who might need to be separated for a time, but that does not require them to be tortured, and that separation must have a reasonable expiration.

The HALT Solitary Confinement Act would address the racially discriminatory disciplinary system documented by the *New York Times*, end the torture of long-term solitary confinement beyond 15 days for all people, and create more humane and effective alternatives. HALT would require that any person separated from the general prison population for more than 15

¹ *In re Medley*, 134 U.S. 160, 168 (1890).

² E.g., Rick Raemisch, *My Night in Solitary*, N.Y. TIMES, Feb. 20, 2014.

³ U.S. Senator Dick Durbin, Durbin Statement on Federal Bureau of Prisons Assessment of Its Solitary Confinement Practices (2013).

⁴ Jacey Fortin, *Report Compares Texas’ Solitary Confinement Policies To Torture*, N.Y. TIMES, April 26, 2017.

consecutive days be placed in an alternative secure rehabilitative and therapeutic unit. HALT also restricts the criteria that can result in isolation, bars vulnerable populations from being placed in isolation for any period, enhances staff training, and provides for procedural protections and outside oversight.

New York has the opportunity to become a model for humane and effective change, while making our prisons, jails, and communities safer. For all of these reasons, Brooklyn Defender Services urges you to co-sponsor and support the HALT Solitary Confinement Act.

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