



**#HALTsolitary Campaign**  
**TESTIMONY FOR NYS PUBLIC PROTECTION BUDGET HEARING**  
Regarding the New York State Executive Budget Proposals  
State Fiscal Year 2024-2025  
January 25, 2024

Thank you to the Senators and Assembly Members for holding this hearing and for this opportunity to present testimony on behalf of the #HALTsolitary Campaign.

Led by people who have survived solitary confinement and had family members inside, the #HALTsolitary Campaign is a New York statewide campaign comprised of more than 400 organizational supporters. The #HALTsolitary Campaign aims to end the torture of solitary confinement for all people, create more humane and effective alternatives, and build on these changes to dismantle the racial injustices and punishment paradigm that underpin the entire incarceration system. The #HALTsolitary Campaign led the movement of people, organizations, and groups across the state that resulted in a supermajority of both houses of the legislature passing, and the Governor signing, the HALT Solitary Confinement Law.

While there are many areas related to the budget to address, our testimony will focus on the need to address ongoing rampant violations of the HALT Solitary Law, while also briefly discussing other related budget initiatives, namely college programming in prisons and prison closures, and legislative initiatives, including the need for Elder Parole, Fair and Timely Parole, Rights Behind Bars, Treatment Not Jail, Challenging Wrongful Convictions, Eliminate Mandatory Minimums, Second Look, Earned Time Act, and the entire [Justice Roadmap](#).

Our overall key recommendations related to the public protection budget in this testimony include:

- 1. Take additional measures to ensure that prisons and jails across the state fully implement the HALT Solitary Confinement Law**
  - a. Urge the Governor, DOCCS, and local jails to fully and properly implement the HALT Solitary Confinement Law.
  - b. Pass the **Rights Behind Bars bill, S7772/A8364**, to address the systemic HALT violations, as well as other interconnected forms of repression taking place in NY

prisons, jails, and forensic facilities, including the package ban, restrictions on visits, and rampant staff brutality.

- c. Provide **separate and additional funding to Prisoners Legal Services specifically to provide representation** for people in NY prisons facing solitary confinement, which is possible for the first time under the HALT Solitary Confinement Law.
  - d. ***Do not* provide any funding for any construction DOCCS claims** is associated with the HALT Solitary Law or otherwise. What is needed to implement the HALT Solitary Law is not the construction of metal cages for purported recreation or new program space, particularly as the state closes prisons because of excess space for the current system. Instead, what is needed for the HALT Solitary Law is proper implementation of the law and the provision of meaningful programming operated by peers, outside community members, and staff. We urge you to ensure that no funds are used for the construction of new recreation cages; congregate recreation can and should take place in existing spaces, including in yards and gyms, and meanwhile any resources available should be put toward implementing actual and effective programming.
2. Related to two of the Governor's initiatives: **expand college programming further and close those prisons that inflict some of the most racist staff brutality and abuse** that this and other campaigns have long advocated to close, including **Attica, Great Meadow, Upstate, and Clinton** Correctional Facilities.
  3. **Pass additional urgent legislation** to save lives, improve safety, reinvest money into real community safety, and stop torture and abuse, including most urgently **Elder Parole and Fair and Timely Parole, as well as Treatment Not Jail, End Qualified Immunity, Challenging Wrongful Convictions, Eliminate Mandatory Minimums, Second Look, Earned Time Act, and the entire [Justice Roadmap](#).**
  4. **Overall, divert state resources away from the *billions of dollars* spent on incarceration**, and instead make real investments in housing, healthcare, education, and employment opportunities, as well as real support to survivors of violence and interventions in the community that actually support people's health, well-being, and safety.
    - a. Of note, New York State continues to have significantly higher numbers of officers per incarcerated person than the rest of the country. With a current ratio of one security staff per 2.2 incarcerated people, New York prisons have nearly two and half times as many officers per incarcerated person than the average of all state prisons across the country (ratio of one security staff to every 5 incarcerated

people) and nearly five times as many officers per incarcerated person as federal prisons (ration of one staff per 10 incarcerated people).

### **HALT Solitary Confinement Law**

The HALT Solitary Confinement Law itself has had tremendous positive impacts on people's lives, and at the same time prisons and jails across the state continue to systematically violate the law. We continue to commend this legislature for passing the HALT Solitary Confinement Law. Solitary confinement is [torture](#). It causes [devastating](#) and [deadly harm](#). It also [worsens safety](#) for all, while alternative forms of separation – like the [Merle Cooper program](#), [RSVP program](#), and [CAPS/PACE programs](#) – have been [proven](#) to reduce violence.

On the positive side, the HALT Law has already led to:

1. the closure of Southport Correctional Facility (which was one of New York's two supermax prisons dedicated to solitary confinement, with a long history of abuse)
2. the official end of keeplock (one form of solitary confinement where people were locked 23 to 24 hours a day in a cell)
3. drastic reductions in the use and length of SHU (another form of solitary where people had been locked in 23 to 24 hours a day for months, years, and decades before HALT) and now finally DOCCS at least officially reports that people are no longer held in SHU for more than 15 consecutive days
4. the removal of people who had spent years and decades in solitary, including individuals who have now come home from prison and are being successful in the outside community; and
5. the operation of some alternatives with opportunities for at least some meaningful human engagement.

At the same time, state prisons and jails are flagrantly [violating nearly every core component of the HALT Law](#). For example, DOCCS is:

1. Locking people in solitary despite bans on [protected populations](#), including people with mental health needs and physical and cognitive disabilities.
2. Operating [alternatives](#) as solitary by another name by failing to provide required out-of-cell time or programming in units that were previously solitary units and [chaining](#) people to desks during the limited out-of-cell time. The law requires people in alternatives to have access to at least seven hours of daily out-of-cell group programming and activities. Instead, people at some prisons are officially getting at most three hours of out-of-cell time and many people are not receiving any and are instead locked in solitary confinement 24 hours a day.
3. Operating various other solitary-by-another name [units](#) as if HALT doesn't apply, such as step-down units, protective custody, and residential mental health treatment units.

4. Sending people to solitary and alternatives for [conduct](#) banned by the law. DOCCS data shows they have issued SHU sanctions at a higher rate after HALT than before, and between 18% to two-thirds of SHU sanctions are for reasons not allowed under the law.
5. Even more [disproportionately](#) sending Black people to solitary and alternatives.

The following provides some additional information regarding some of the ongoing key violations of the law.

### **1. Special Populations in Segregated Confinement**

The HALT Solitary Law, by incorporating a very explicit definition of disability in New York's human rights law, has a clear and precise ban on the use of segregated confinement for all people with any diagnosed mental health need and any diagnosed physical, sensorial, cognitive, intellectual, developmental, or other disability. This definitely clearly and unequivocally includes any person on the state's own Office of Mental Health (OMH) caseload. However, DOCCS continues to lock hundreds of people on the OMH caseload, as well as people with disabilities, in segregated confinement in Special Housing Units (SHU) and locks people in conditions that are segregated confinement in other units because they are locked in cell confinement more than 17 hours a day, such as Residential Rehabilitation Units (RRUs) and Residential Mental Health Treatment Units (RMHTUs).

### **2. Criteria of Conduct Resulting in Segregated Confinement and RRUs**

The HALT Solitary Law has very explicit requirements for what conduct can result in placement in either segregated confinement, RRUs, or RMHTUs. The law requires individualized determinations at a hearing - where representation is supposed to be allowed under the law - that any particular incident of conduct both fits within the very explicit list of acts in the law and that such act(s) were so heinous or destructive that remaining in general population poses a significant risk of *imminent serious physical injury* to staff or other incarcerated persons *and* an unreasonable risk to the security of the facility. There is an ongoing class action lawsuit about DOCCS' violations of this provision of the HALT law, including their failure to even assess individual conduct against the HALT criteria. Yet, people continue to be sent to solitary confinement and alternatives for reasons banned by the law and DOCCS' own data continues to show that thousands of sentences to segregated confinement have been for conduct that is not permissible under HALT.

### **3. Out of Cell Time and Programming in SHU, Including Core Programs**

The HALT Law requires that all people in segregated confinement, up to the 15-day limit, have access to at least four hours of daily out-of-cell programming. The state's own Justice Center has

repeatedly reported how people in SHU are not participating in out-of-cell time / programming, that DOCCS uses empty tiers to carry out programming, that DOCCS forces people to choose between using a tablet to contact their loved ones and out-of-cell time and programming, and that DOCCS does not offer people access to mandated programs, such as ART, ASAT, and educational programming. People also report that DOCCS staff often deny people the ability to leave their cell or participate in programming. Also, the space DOCCS is utilizing for programming in SHU is not in any way conducive to actual programming or meaningful interaction with each other, since people are just in a single file line of restart chairs where people are chained to the chair.

#### **4. Out of Cell Time and Programming in the RRUs, Including Core Programs**

The HALT Law is very explicit that people in the RRUs generally must have access to at least seven hours of daily out-of-cell group programming and activities, including access to core programs comparable to those in general population. We have received innumerable reports from prisons and jails all across the state that people do not receive access to the required out-of-cell time or programming. Many people report that they do not receive any out-of-cell time, while others receive up to at most three hours to – rarely – six hours of group out-of-cell time, often only during weekdays. For example, at Upstate C.F., which has by far the largest RRU in the state, the official policy at the facility is that people at most get access to one module of three hours per day of out-of-cell time (and many people do not receive any out of cell time).

To the extent that DOCCS claims that people are receiving additional out-of-cell time, being locked alone in a recreation pen at the end of a tier or on the balcony of one's own cell is not out-of-cell time and certainly is not congregate out-of-cell time required under the law. DOCCS also has failed to provide people in RRUs with access to core programs as required by HALT, including ASAT, ART, academic programs, vocational programs, sex offense programming, and transitional services. DOCCS' response to this issue that providing access to programming would incentivize bad behavior – is archaic, counterproductive, out of line with the entire purpose of HALT, and cruel. It is also nonsensical for DOCCS to say that the programming should be aimed at addressing the reasons why a person may need to be separated from the general population and thus can't be the core programs that DOCCS has mandated a person to take when the reason those programs are mandated by DOCCS is purportedly to address people's needs and behaviors.

#### **5. Rehabilitation Plans, Reviews, and Releases from RRUs**

The HALT Law requires that every person in an RRU (and RMHTU) have a rehabilitation plan. In turn, every person is supposed to have a review every 60 days in the RRU to determine if they should be discharged from the RRU. If a person is not released, the law requires that the person

be told what they have to do to be released, provided access to whatever is required, and then be released if it is completed. In addition the law requires that people who substantially complete their rehabilitation plan have their good time restored. DOCCS does not appear to be doing, or at least meaningfully doing, any of those processes required by the law. DOCCS has a very large number of people in the RRUs – more than the number of people in SHU prior to HALT’s implementation. Part of that large number stems from the failure to implement HALT’s conduct criteria discussed above, and part of it is a failure to follow the reviews and release mechanisms under HALT, as people spent months and longer in the RRUs and RMHTUs.

## **6. One Year Limit**

The HALT Law provides generally for a one year time limit on placement in RRUs and RMHTUs, with very narrowly tailored exceptions. We have received multiple complaints about people being held in such units past the one year limit, and DOCCS carrying out objectionable practices to try to circumvent the one year limit. This time limit is of paramount importance because of the long history of DOCCS warehousing people in solitary confinement and alternative units, including people spending many years in RMHTUs.

## **7. Residential Mental Health Treatment Units**

The HALT Law requires that all of the Residential Mental Health Treatment Units (RMHTUs - RMHUs, BHU, TBU) not only continue to follow the requirements under the SHU Exclusion Law, but also follow all of the requirements for the RRUs. Those requirements include the issues discussed throughout this testimony, including access to seven hours of daily out-of-cell group programming, the criteria of conduct for placement in the units, the use of shackles, and the mechanisms of release. We have received numerous complaints across the RMHTUs that out-of-cell time and programming has not changed after HALT was enacted, and that people are not being provided access to the required seven hours of daily group out-of-cell programs and activities.

## **8. Protective Custody**

Similarly, the HALT Law is explicit that no person can be placed in segregated confinement for purposes of protective custody (PC) and explicitly requires that all protective custody units comply with the requirements of the RRUs, including access to at least seven hours of daily out-of-cell group programming and activities. We have received numerous complaints about people in protective custody not receiving the out-of-cell time, programming, and other requirements of the RRUs, as well as complaints that DOCCS denies people the ability to be in protective custody, despite real safety issues.

## **9. Other Units that are Not SHU, RRUs, RMHTUs, or PC**

DOCCS is operating numerous units across the state in violation of the law, with prison administrators or staff falsely telling people that HALT does not apply to those units. Such units include step-down units, reception, administrative segregation, close supervision unit, I-ASAT, and other units. The step-down unit at Midstate is of particular concern as many people seem to be warehoused there for extended periods of time for either past disciplinary infractions or as a form of administrative segregation, while being illegally denied the protections of HALT discussed throughout this testimony, including the 15-day limit on segregated confinement and ban on special populations, and the requirements to have access to seven hours of daily out-of-cell group programming and activities if not in segregated confinement. People are kept in the step-down program for months or years, and are often only provided a few hours of out-of-cell group programming time, and only four days a week.

## **10. Restraints**

HALT has a presumption against the use of restraints during out-of-cell programming in alternative units and a required individualized determination before restraints could be utilized. For approximately one year, it was DOCCS' official policy – in direct violation of the HALT Law – that every person in RRU programming be chained to their desk. Now, even after that is no longer the official policy, in practice people continue to be automatically shackled across the state without justifiable reasons or any reason.

## **11. Deaths**

We have tragically heard from family members and people inside about several deaths in RRUs and RMHTUs. These deaths are directly related to the failure to implement HALT and to continue to operate these units as solitary by another name.

## **12. Other interconnected forms of repression**

There is a crisis of repression in the state prisons right now. The HALT campaign and allies at various campaigns and legal organizations continue to receive innumerable complaints from people in the state prisons reporting staff brutality against themselves and others, as well as false tickets, retaliation, and other abuse. Innumerable people across prisons and jails have reported detailed accounts of staff [physical](#) & [sexual](#) assaults, then false tickets for “assaults on staff” as cover-up. Of note, [DOCCS data](#) shows that more than 97% of reported “assaults on staff” have resulted in no injury (70%) or minor injury (27%) to staff, where minor injuries are defined by DOCCS as “injuries that require either no treatment, minimal treatment (scratch, bruise, aches/pain) or precautionary treatment.” Also of note, *reported* “assaults on staff” have increased

each year for more than the last decade well before HALT or any solitary changes. A Northern District judge threw out a NYSCOPBA lawsuit challenging HALT saying an “upward trend beginning in 2012, when changes to solitary confinement practices did not begin until 2016, offers little persuasive value.”

That trend coincides with a significant *increase* in the number of security staff for each incarcerated person. Since 1999, the security staff to incarcerated person ratio has nearly doubled, including a 38% increase since 2011. It also coincides with a 212% increase in staff use of force since 2011, including a 3400% increase in the use of chemical agents.

Indeed, New York State continues to have significantly higher numbers of officers per incarcerated person than the rest of the country. Specifically, with a [current ratio](#) of one security staff per 2.2 incarcerated people, New York prisons [have nearly](#) two and half times as many officers per incarcerated person than the average of all state prisons across the country (ratio of one security staff to every 5 incarcerated people) and nearly five times as many officers per incarcerated person as federal prisons (ration of one staff per 10 incarcerated people).

Beyond direct staff abuse, DOCCS has increased its repression of incarcerated people by agency policy. In addition to blatantly violating HALT, DOCCS has inflicted a ban on family care packages and a ban on direct mail. At the same time, DOCCS’ regulations also vastly expanded the ability of DOCCS to take away people’s visits with their loved ones. Visits, care packages, and mail from family, friends, and loved ones serve as a critical form of connection and community, help relieve stress and tension, provide hope and care, provide people with essential food and nutrition, provide access to religious materials, and more.

The combination of staff brutality, systemic violations of the HALT law, and the restrictions on packages, mail, and visits are creating an abusive and repressive environment and increasing tensions. Many people across the state have said that DOCCS is creating conditions akin to those in the lead up to the Attica rebellion.

State prisons and jails must fully implement the HALT law and stop the related repressive policies and practices to stop torture, save lives, and improve safety for everyone. The Governor must ensure that DOCCS and local jails follow the law, and the legislature must do everything in its power to ensure that the letter and spirit of the law are implemented. Specifically, the legislature should take the following immediate steps:

- a. Urge the Governor, DOCCS, and local jails to fully and properly implement the HALT Solitary Confinement Law, including at a minimum stop placing people with mental health needs and disabilities in any form of segregated confinement, limit the conduct resulting in placement in solitary and alternatives, provide all people in the RRUs,



RMHTUs, step-down units and elsewhere access to at least seven hours of daily out-of-cell group programs and activities without being shackled, and follow the release mechanisms from RRUs and RMHTUs.

- b. Pass the Rights Behind Bars bill, S7772/A8364, to address the systemic HALT violations, as well as other interconnected forms of repression taking place in NY prisons, jails, and forensic facilities, including the package ban, restrictions on visits, and rampant staff brutality, while also urging the Governor to make these changes administratively.
- c. Provide separate and additional funding to Prisoners Legal Services specifically to provide representation for people in NY prisons facing solitary confinement, which is possible for the first time under the HALT Solitary Confinement Law. Ensuring greater access to representation will both support people in prison with their individual cases and provide a much needed mechanism of oversight into the implementation of the HALT Law. Making the access to representation under HALT real is particularly crucial because of the long history of prisons and jails sending people to solitary based on false allegations, for minor conduct that can no longer lead to solitary under HALT, for retaliation against those who raise concerns or complaints, and as a cover-up for staff abuse.
- d. **Do not** provide funding for any construction DOCCS claims is associated with the HALT Solitary Law or otherwise. What is needed to implement the HALT Solitary Law is not the construction of metal cages for purported recreation or even new program space, particularly as the state closes prisons because of excess space for the current system. Instead, what is needed for the HALT Solitary Law is proper implementation of the law and the provision of meaningful programming operated by peers, outside community members, and staff. We urge you to oppose the use of funds for the construction of new recreation cages; congregate recreation can and should take place in existing spaces, including in yards and gyms and meanwhile any resources available should be put toward implementing actual and effective programming.

### **Governor's Proposed Budget Initiatives**

We were pleased to see the Governor prioritize the expansion of college initiatives in prison. Evidence has long been shown, and our campaign's own members' and leaders' experiences demonstrate that, access to higher education in prison can have transformational impacts on people's lives and increase safety and well-being both in prisons and in outside communities. A number of our campaign members/leaders acquired higher degrees while incarcerated, which only furthered their ability to be peer leaders while incarcerated, successful upon return to the outside community, and leaders of various campaign efforts today. It is imperative for the Governor and the legislature to expand college program access to more prisons and more opportunities for additional enrollments at prisons where it already exists.

We were also pleased to see the Governor propose to close five prisons in the upcoming year. We would urge that the Governor prioritize closing prisons that inflict some of the most racist staff brutality and abuse. Specifically we urge that the following prisons be closed in line with recommendations this and other campaigns have repeatedly made for many years:

1. Attica Correctional Facility: Attica has an infamous history of racist brutality and abuse. The history of the state's violent and deadly repression of the Attica rebellion in 1971 is a stain on the state. At the same time, Attica continues to be a site of racism, staff brutality, and torture, with recent [reports](#) and [reporting](#) continuing to document such abuse.
2. Great Meadow Correctional Facility: Great Meadow has a long history of racist staff brutality and abuse, including against people who have significant mental health needs. A new lawsuit documents how individuals were recently [waterboarded](#) at Great Meadow. Great Meadow also operates one of the Residential Mental Health Treatment Units, namely the Behavioral Health Unit. In that unit, people who have significant mental health needs have faced conditions that amount to solitary by another name, as well as staff brutality and abuse.
3. Upstate Correctional Facility: Upstate C.F. was operated as a supermax prison dedicated to the use of solitary confinement. When the HALT Solitary Confinement Law took effect, the prison system officially covered all of the SHU cells at Upstate into Residential Rehabilitation Unit (RRU) cells. However, as discussed above, many people incarcerated at Upstate have reported that conditions in the RRU at Upstate amount to solitary by another name. As discussed above, the official policy at the prison is to only provide people in the RRU with access to three hours of actual out-of-cell time per day, in direct violation of the HALT Solitary Law. In addition, Upstate is at a prison without any history of running rehabilitative and therapeutic programming and in a remote location in the state where it is very difficult to recruit programming and treatment staff or volunteers. Upstate continues to operate as an all-solitary prison inflicting solitary by another name and the state needs to close it because New York should no longer have a prison dedicated to solitary, especially in light of the HALT Solitary Confinement Law.
4. Clinton Correctional Facility: Clinton also has a long history of racist staff brutality and abuse. As with the other prisons listed here, [reports](#) and [reporting](#) have documented rampant staff brutality, officers beating people inside, officers suffocating people with bags, and other abuses. In one recently [documented situation](#) in which a federal jury just found for his mother, officers brutally beat 25-year-old Terry Coopers to death with batons at Clinton.

## **Other Urgent Legislative Initiatives**

### ***Elder Parole and Fair and Timely Parole:***

There is a crisis of aging and death behind prison walls. The combination of extreme prison sentences with the failures of the New York State Parole Board mean that people are aging and dying at alarming rates. A person dies in a New York prison less than every three days. This is beyond a crisis. Contributing to this crisis, the Parole Board denies release to thousands of people every year, often repeatedly, causing people to spend years and decades in prison longer than the minimum sentence imposed by the judiciary and the legislature. Yet, far too often the Board inflicts those denials – in a racially biased manner – based on the person’s crime of conviction or past criminal history, rather than making determinations based on who the person is today who appears before them, what current risk to public safety they pose, what accomplishments and transformation they have achieved, or whether they have demonstrated their current readiness for release. At the same time, draconian prison sentences mean that many people who spend decades behind bars will never even have an opportunity to appear before the Parole Board and are sentenced to die in prison.

As the legislature considers this year’s budget, there is no price that can be placed on all of the lives who have been lost since last year’s budget hearing. At the same time, New York spends an average of \$60,000 annually to incarcerate just one person, and between \$100,000 and \$240,000 annually per older adult in prison.

The Senate and Assembly must pass and the Governor must sign the Fair & Timely Parole Act (S.307-Salazar / A.162-Weprin) to ensure that people who appear before the Parole Board are assessed for who they are today and their current readiness for release, and Elder Parole (S.2423-Hoylman / A.2035-Davila) to ensure that people who are at least 55 years old and have served at last 15 years in prison have an opportunity to at least appear before the Parole Board. Passing these bills could save the state \$522 million per year, critical resources that could be used to actually provide the supports and resources needed to improve public safety, while also providing opportunities for amazing community leaders to return from prison, be with their families, and support their communities.

### ***Treatment Not Jail***

There is a crisis of abuse and death in local jails, which will only be exacerbated by any further attempts to continue to expand criminalization and jailing. Jails in New York City and across the state are in a state of crisis. In New York City, two people have already died this year, 30 people in the last two years, and 46 people have died since 2021. Across the state, people have recently died in Washington County Jail, Clinton County Jail, Cayuga County Jail, Monroe County Jail,

Oneida County Jail, Orange County Jail, and Onondaga County Jail. The legislature should reject all of the attempts by the Governor to increase criminalization in her budget proposal. This legislature can not continue to send more and more people to deadly jails. At the same time, the legislature must pass, and the Governor must sign, the Treatment Not Jail Act to ensure that people with mental health needs or substance use issues are diverted from the incarceration system and instead receive the treatment they need.

***Other Top Legislative Priorities:***

In addition to Elder Parole, Fair and Timely Parole, Rights Behind Bars, and Treatment Not Jail discussed above, the legislature should also again pass the Challenging Wrongful Convictions Act following the Mayor's inappropriate veto, and should pass Eliminate Mandatory Minimums, Second Look, Earned Time Act, and the entire [Justice Roadmap](#) to begin to address the harsh, draconian, counterproductive, and deadly policing, detention, conviction, sentencing, and deportation systems.

**CONCLUSION**

If the legislature and Governor are truly concerned about public safety, then they will stop using a racist, repressive, violence-creating, and deadly system of incarceration. The legislature must instead make real investments in housing, healthcare, education, and employment opportunities, as well as provide real support to survivors of violence and utilize interventions in the community as well as inside of prisons and jails (so long as they exist) that actually support people's health, well-being, and safety.