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TESTIMONY FOR NYS PUBLIC PROTECTION BUDGET HEARING
Regarding the New York State Executive Budget Proposals
State Fiscal Year 2023-2024
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Thank you to the Senators and Assembly Members for holding this hearing and for this opportunity to testify. My name is Tyrrell Muhammad and I am testifying as a leader of the #HALTsolitary Campaign. I have been a part of the campaign for the last decade.

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 issues in need of discussion, my testimony today will focus on five priority areas to help protect the basic human rights and safety of all New Yorkers.

First, I want to commend this legislature for passing the HALT Solitary Confinement Law and to highlight how – despite rampant violations of the law – the HALT Law itself has had transformational impacts on people’s lives. 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. The HALT Law has already led to:

1. the closure of Southport Correctional Facility (which is a supermax prison dedicated to solitary confinement that has a long history of abuse)
2. the 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)

4. the removal of people who had spent years and decades in solitary and
5. the operation of alternatives with opportunities for at least some meaningful human engagement.

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

1. Holding hundreds of people in solitary past the absolute legal limit of [15 days for all people](#), including up to 89 days in SHU, and for months and beyond in other forms of solitary.
2. Locking people in solitary despite bans on [protected populations](#), including people with mental health needs and physical and cognitive disabilities.
3. 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 [automatically 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. We have learned of about at least six people who died in alternative units since July.
4. 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..
5. Sending people to solitary and alternatives for [conduct](#) banned by the law. DOCCS data shows they have issuing SHU sanctions at a higher rate after HALT than before, and between 18% to two-thirds are all for reasons not allowed under the law.
6. Even more [disproportionately](#) sending Black people to solitary and alternatives.
7. Continuing to issue proposed regulations that directly violate core components of the HALT Law, disregarding public comments from 56 legislators and many community organizations.

State prisons and jails must fully implement the HALT law to stop torture, save lives, and improve safety for everyone. The Governor must ensure that DOCCS follows the law, and the legislature must do everything in its power to ensure that the letter and spirit of the law are implemented.

Third, there is a crisis of repression in the state prisons right now. The HALT campaign and allies at various legal organizations have received innumerable complaints over the last year 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 98% of reported “assaults on

staff” since HALT have resulted in no injury (73%) or minor injury (25%) 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 the last 10 years, 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.

Beyond direct staff abuse, DOCCS has increased its repression of incarcerated people by 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’ emergency and proposed regulations vastly expand 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 serves as a critical form of connection and community, helps relieve stress and tension, provides hope and care, provides people with essential food and nutrition, provides access to religious materials, and more.

The combination of staff brutality, 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.

The Governor must rescind the package ban and restrictions on mail, protect and expand access to visitation, and stop officer brutality and abuse. The Senate and Assembly must also stop in to legislatively restore and protect the right of every incarcerated person and their family members to have visits, packages and mail. The Senate and the Assembly must also pass the End Qualified Immunity Act, and the Governor must sign it into law, as one mechanism to bring at least some accountability for staff abuse.

Fourth, there is also 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 least 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.

The legislature should also pass the Challenging Wrongful Convictions Act, Eliminate Mandatory Minimums, Second Look, and Earned Time Act to begin to address the harsh, draconian, counterproductive, and deadly conviction and sentencing systems.

Fifth, there is a crisis of abuse and death in local jails, which will only be exacerbated by any further attempts to continue increasing pre-trial caging. Jails in New York City and across the state are in a state of crisis. Just on Saturday, February 4, reporter Jan Ransom at the NY Times reported that Michael Pines, age 64, was killed by NYC jails. Meanwhile, the Governor's proposal to remove longstanding constitutional protections against pre-trial jailing would subject many more people to the deadly conditions in which Mr. Pines perished.

The last two sets of bail rollbacks have contributed to a sharp increase in the number of people jailed. In NYC, for example, the number of people incarcerated has increased from a low of around 3,800 people to now over 6,000 people on a given day. Meanwhile, NYC DOC is abandoning people with mental health needs in [tiny shower cages](#) as de facto solitary confinement. People are [languishing without urgently needed medical care](#) for everything from dangerous chronic illnesses to broken bones. Suicides, self-harm, and overdoses [are surging behind bars](#). Jail officers, perhaps jaded and desensitized by the facilities in which they work day after day, are [bringing in drugs and weapons](#) to sell and outright encouraging people to hurt

themselves, or [watching idly as they do so](#). New York City's jails [took the lives of 19 people in 2022 alone](#), now 36 people in the last two years, and hundreds of people in the last decade. While the crisis at Rikers is particularly acute, people are dying in jails across New York State. People have died in jails in at least [Erie County](#), [Broome County](#), and [Nassau County](#) this year alone.

The Senate and Assembly must completely reject the Governor's proposal to increase pre-trial caging, and instead must do everything within their power to reduce the number of people held in jails across the state to stop this deadly crisis. As one part of that, the legislature must pass and the Governor must sign the Treatment Not Jail Act.

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 as a political ploy and distraction from actually pursuing the investments that are needed to support New Yorkers' safety. 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.