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**Testimony for the House Judiciary Committee
February 26, 2016**

HB 1180 Correctional Services - Restrictive Housing - Report

SUPPORT

The ACLU of Maryland supports HB 1180, which requires the Department of Public Safety and Correctional Services (DPSCS) to report on the use of restrictive housing in Maryland on an ongoing basis. Although the public has received two snapshot accounts of the use of restrictive housing in recent years, a longitudinal look is necessary to ensure that Maryland is reducing its overreliance on the use of restrictive housing.

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Maryland uses restrictive housing at twice the national average

In 2010, DPSCS and the Vera Institute of Justice conducted a collaborative study that found that Maryland places 8.5% of inmates in restrictive housing, compared with the national average of 4-5%.¹ For years, members of the public and the advocacy community have unsuccessfully requested information from DPSCS about the use of restrictive housing. Finally, in 2015, DPSCS shared data with Senator Zirkin indicating that Maryland's use of restrictive housing remained at about 8%.² The letter also revealed that the average length of stay in administrative segregation is 130 days. The average length of stay in disciplinary segregation is 124 days.³ Please see attached a few of many examples of disciplinary segregation sheets reflecting these lengthy sentences.

Mentally ill inmates fare worse—they are placed in restrictive housing at a rate of 15.5% (twice that of the general population), and spend on average 228 days in administrative segregation and 224 days in disciplinary segregation.⁴ According to the U.N. Special Rapporteur on Torture, the mentally ill should never be placed in isolation.⁵

HB 1180 is a transparency measure

HB 1180 is a transparency measure needed for the General Assembly and Marylanders to know how inmates are treated. HB 1180 will allow the state to determine whether there is a misuse of restrictive housing; whether persons are released directly from

¹ See attached excerpt of the Report of the Vera Institute of Justice—Segregation Reduction Project.

² Letter from Stephen T. Moyer, Secretary of the Department of Public Safety and Correctional Services to Hon. Bobby A. Zirkin, Re: Use of Segregated Confinement in Maryland's correctional facilities (dated Oct. 1, 2015).

³ *Id.*

⁴ *Id.*

⁵ Interim Report of the Special Rapporteur of the Human Rights Council on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. A/66/268 (August 5, 2011), par. 78.

restrictive housing to the community—and what public safety risks that presents, whether certain demographics are subject to restriction at disparate rates; and in order to ferret out any other relevant trends in the use of restrictive housing in Maryland.

Restrictive housing is expensive

The cost of incarcerating a prisoner in restrictive housing is often more expensive than the cost of confinement in the general prison population. In 2007, the Mississippi Department of Corrections closed an entire unit after reducing segregation from 1,300 to 335 inmates. According to Mississippi Department of Corrections Deputy Commissioner, “we saved approximately \$5.6 million a year and were able to avoid layoffs and furloughs.”⁶ Given the proven deleterious effects of prolonged isolation, Maryland must invest our limited public dollars in proven alternatives that lead to greater rehabilitation and pave the way for successful re-entry.

Overuse of restrictive housing is unsafe

Normal human contact is essential for ensuring successful re-entry and reducing recidivism rates. Prolonged isolation does not facilitate rehabilitation and can create or exacerbate pre-existing mental illnesses and other social, mental and emotional problems. People held in restrictive housing are subject to conditions of extreme social and sensory deprivation. Deleterious effects of segregated confinement include perceptual distortions and hallucinations;⁷ revenge fantasies, rage, and irrational anger;⁸ and lower levels of brain function, including a decline in EEG activity after only seven days in solitary confinement.⁹ Significantly, people released directly from solitary confinement into the community have higher recidivism rates.¹⁰

In a recent op-ed, the Executive Director of the Colorado Department of Corrections described his experience spending one night in solitary confinement. He went in at 6:45pm, at 11:10 am, he wrote—“I felt as if I’d been there for days. I sat with my mind. How long would it take before [solitary] chipped that away? I don’t know, but I’m confident that it would be a battle I would lose.”¹¹ Many people are held for much longer than Mr. Raemisch, with serious consequences for themselves and for society.

⁶ Vera Institute of Justice Blog, “Mississippi DOC’s Emmitt Sparkman on Reducing the Use of Segregation in Prisons,” October 11, 2011, <http://www.vera.org/blog/mississippi-docs-emmitt-sparkman-reducing-use-segregation-prisons> (accessed February 16, 2015).

⁷ Craig Haney, *Mental Health Issues in Long-Term Solitary and “Supermax” Confinement*, 49 CRIME & DELINQ. 124, 130 (2003); see generally Richard Korn, *The Effects of Confinement in the High Security Unit at Lexington*, 15 Soc. Just. 8 (1988).

⁸ Holly A. Miller & Glenn R. Young, *Prison Segregation: Administrative Detention Remedy or Mental health Problem?*, 7 CRIM. BEHAV. & MENTAL HEALTH 85, 91 (1997); see generally HANS TOCH, *MOAIC OF DESPAIR: HUMAN BREAKDOWN IN PRISON* (1992).

⁹ Paul Gendreau, N.L. Freedman, G.J.S. Wilde & G.D. Scott, *Changes in EEG Alpha Frequency and Evoked Response Latency During Solitary Confinement*, 79 J. OF ABNORMAL PSYCHOL. 54, 57-58 (1972).

¹⁰ See David Lovell, “Patterns of Disturbed Behavior in a Supermax Population,” *Criminal Justice and Behavior* 35 (2008): 9852; David Lovell, L. Clark Johnson, and Kevin C. Cain, “Recidivism of Supermax Prisoners in Washington State,” *CRIME AND DELINQUENCY* 53 (2007): 633-656; and David Lovell and Clark Johnson, “Felony and Violent Recidivism Among Supermax Inmates in Washington State: A Pilot Study” (University of Washington, 2004).

¹¹ Rick Raemisch, *My Night In Solitary*, THE NEW YORK TIMES (Feb. 20, 2014), www.nytimes.com/2014/02/21/opinion/my-night-in-solitary.html?_r=0 (accessed Feb. 16, 2015).

Restrictive housing is not a panacea for safety

Other jurisdictions have reduced the use of restrictive housing without compromising prison safety. After Maine cut solitary in half between 2010 and 2012 there was no increase in prison violence.¹² According to a study published by the Federal Bureau of Prisons, “States that have reduced segregation populations have found no adverse impact on institutional safety.”¹³

For the foregoing reasons, the ACLU of Maryland urges a favorable report on HB 1180.

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¹² Change Is Possible: Solitary confinement destroys lives, ACLU of Maine, available at <http://www.aclumaine.org/changeispossible>.

¹³ Federal Bureau of Prisons: Special Housing Unit Review and Assessment (Dec. 2014) (http://www.bop.gov/resources/news/pdfs/CNA-SHURreportFinal_123014_2.pdf)