



Testimony for the House Judiciary Committee February 20, 2015

HB 301 Public Safety – Segregated Confinement – Report

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SUPPORT

The ACLU of Maryland supports HB 301, which requires the Department of Public Safety and Correctional Services (DPSCS) to report on the use of segregated confinement in its facilities. Among other important information concerning inmates held in segregation, the bill calls for reporting on any mental health conditions suffered by inmates; inmates' race, age, and gender; inmates' self-reported gender and sexual orientation; and the length of time for which inmates are held in segregation.

Maryland's use of Segregated Confinement is higher than the National Average

In 2010, DPSCS and the Vera Institute of Justice conducted a collaborative study of segregation in DPSCS facilities. The study made a number of findings and recommendations. Some of the key findings include—Maryland's use of administrative and disciplinary segregation is high, as compared with other states; there is a lack of mental health and special needs interventions; and there are discrepancies in the segregation sentences issued for similar offenses.¹ DPSCS has not issued any formal response to the report's findings and has not followed up with the Vera Institute to implement the report's recommendations.

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HB 301 is a Necessary Transparency Measure

HB 301 is a transparency measure that is necessary in order for the General Assembly and Marylanders to understand how inmates are treated within DPSCS facilities on an ongoing basis. Reporting is necessary for the General Assembly to determine whether there is a misuse of segregation; whether certain demographics are subject to segregation at disparate rates; and in order to ferret out any other relevant trends in the use of segregation in Maryland.

Segregation comes at a High Cost to Taxpayers

The cost of incarcerating a prisoner in segregated confinement 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."² Given the proven deleterious effects of segregation, it is imperative that Maryland invests our limited public dollars in proven alternatives that lead to greater rehabilitation and pave the way for successful re-entry to the community.

Segregated Confinement Jeopardizes Our Public Safety

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

² 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).

Normal human contact is essential for ensuring successful re-entry and reducing recidivism rates. Segregated confinement does not facilitate rehabilitation and can create or exacerbate pre-existing mental illnesses and other social, mental and emotional problems. Significantly, people released directly from solitary confinement into the community have higher recidivism rates.³

Segregated Confinement Damages People

People held in segregated confinement are subject to conditions of extreme social and sensory deprivation. Deleterious effects of segregated confinement include perceptual distortions and hallucinations;⁴ revenge fantasies, rage, and irrational anger;⁵ and lower levels of brain function, including a decline in EEG activity after only seven days in solitary confinement.⁶

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.”⁷ Many people are held for much longer than Mr. Raemisch, with serious consequences for themselves and for society.

For the foregoing reasons, the ACLU of Maryland supports HB 301.

³ 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).

⁴ 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).

⁵ 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, *MOSAIC OF DESPAIR: HUMAN BREAKDOWN IN PRISON* (1992).

⁶ 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).

⁷ 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).