



## Written Statement of Prisoners' Legal Services of Massachusetts

### United States Senate Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights

*hearing on*

### Reassessing Solitary Confinement II: The Human Rights, Fiscal, and Public Safety Consequences, February 25, 2014

Prisoners Legal Services of Massachusetts welcomes this opportunity to submit written comments to the Subcommittee. The Massachusetts Department of Correction has created secure treatment units which divert many of the most seriously mentally ill prisoners from solitary confinement, with positive effects described below. However, both state and county facilities continue to over-rely on solitary confinement, wasting tax dollars and causing immeasurable, needless suffering. Federal leadership and resources are needed to help Massachusetts and other states shift from this punitive, counter-productive practice toward policies that help prisoners change their behavior and succeed in prison and after their release.

#### **Massachusetts needs federal leadership to reduce over-reliance on solitary confinement**

Massachusetts prisoners may be sanctioned with up to ten years of solitary confinement for a single disciplinary offense, with no determination during that time as to their dangerousness, so that they suffer and deteriorate in solitary years after they no longer pose a safety risk in the general population. Others are held in administrative segregation for months or years at the convenience of prison administrators, with only the most pro-forma review, no requirement that they be released if they do not pose a threat to security, and no way to earn their way out.

One prisoner held in administrative segregation, who suffers from chronic anxiety attacks, pleaded for relief in a prison grievance filed just last month:

I am scared of being alone all the time when these attacks happen... I'm going insane and no one seems to care....I'm terrified of my own mind and thoughts. I really need some help. Show me some coping skills that really work. Change my medication. Send me somewhere that can help me, give me some colored pencils so I can color with... I need something to occupy my time with. I'm reaching out to you for help, I pray my cries do not fall on deaf ears, I have nowhere else to turn, so please do not leave me alone like this.

Nobody should be subjected to such conditions. But at minimum, prisons must be required to segregate prisoners only while they pose an active threat and no longer, and must give each of them a path out of the sensory deprivation torture that is isolation.



## **Massachusetts' new diversion units have greatly helped those diagnosed with serious mental illness but do not solve the problem**

In response to litigation, the Massachusetts Department of Correction (DOC) has created two secure residential treatment programs for prisoners with serious mental illness who would otherwise be held in segregation. A recent study by the DOC's mental health contractor, MHM Services, Inc., found that prisoners in these treatment units had sharp decreases in the number of "use of force" incidents, assaults on prisoners, suicide precautions, and disciplinary reports. These decreases were dramatic both during their time in the treatment units and during the six months after their release from the units, as compared to the six months before their admission.<sup>1</sup> For example, the average participant was involved in 1.21 "use of force incidents" and 0.86 staff assaults during the six months before entering the unit; during the period 3-6 months after leaving the unit, they had no use of force incidents or staff assaults.

While these units are a positive model, they do not house all who suffer from serious mental health problems while in segregation, in part because the criteria for admission are narrow and because the number of beds available is extremely limited (only 29). Even prisoners who do not have a history of serious mental illness report severe psychological distress. PLS continues to hear from prisoners in solitary who say they "feel like I'm suffocating," "feel like my mind is racing all day and night," feel like "I can't focus, I can't even breath," and even some who report delusions.

## **Solitary confinement harms prison management and prisoner reentry**

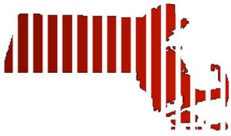
The MHM report referenced above shows that when prisoners are removed from solitary confinement and given rehabilitative programming, their self-harm, assaultiveness, and other disruptive behavior decreases. This confirms recent findings published in American Journal of Public Health which found that solitary confinement was highly associated with self-harm.<sup>2</sup> Mississippi reports that as it greatly reduced its segregation population, incidents of violence dropped by 70 percent. Maine cut its solitary confinement in half between 2010 and 2012 with no increase in prison violence.

In fact, a recent General Accounting Office study reported that investigators had interviewed officials in five states that have reduced reliance on segregation— Maine, Colorado, Kansas, Mississippi and Ohio – and was told in all five states there was no increase in violence when prisoners were moved to less restrictive housing.<sup>3</sup>

<sup>1</sup> *Secure Treatment Unit Outcomes: An Analysis of All STU Admissions 2008 to the Present*, MHM Services, Inc., to the Department of Correction Health Services Division (1/18/13).

<sup>2</sup> *Solitary Confinement and Risk of Harm Among Jail Inmates*, American Journal of Public Health, Vol. 104, no 3 (March 2014) p. 442.

<sup>3</sup> *Bureau of Prisons: Improvement Needed in Bureau of Prison Monitoring and Evaluation of Impact of Segregated Housing*, GAO-13-429 (General Accounting Office, May 2013) at 34..



Prisoners held in solitary are set up to fail when released to their communities. In Massachusetts, as elsewhere, prisoners in solitary receive no in-person rehabilitative programming, no job training, and no education. Family contact, another key to successful reentry, is very limited, with few phone calls and visits, which take place only behind glass. Far too many are released directly from long-term solitary confinement to the street. While data is needed, it seems an obvious proposition that this highly traumatized population is far more likely to recidivate than prisoners given treatment, programs and job training instead of isolation.

### **Solitary confinement wastes public funds**

Data is needed to establish the cost of solitary confinement, but it is clear that over-reliance on solitary wastes public funds in several ways.

- Highly staffed segregation units are far more expensive to run than general population units. The GAO study referenced above showed that, depending on the prison, it costs from 50 to over 250 percent more per day to house a prisoner in segregation than in the general prison population. Mississippi reduced the number in segregation from 1000 to 150 and officials now say they are saving about \$8 million a year. Colorado is greatly reducing its numbers in segregation, and it expects that closing one segregation facility will save it \$13.6 million this year.
- As documented in the MHM study in Massachusetts and the American Journal of Public Health study in New York, cited above, prisoners in solitary are more likely to engage in self-injurious, assaultive, and disruptive behaviors, which results in correctional staff overtime and medical expenses.
- The effects of solitary confinement on recidivism must be studied, but clearly there is a huge cost to sending prisoners into society traumatized by time in solitary confinement and without the therapeutic, educational and employment programs that could have prepared them for release. Prisoners in solitary confinement are destined to fail, and when they commit a new offense it is their victim and the taxpayer who will pay for their re-incarceration

### **States need federal oversight, monitoring and funding to reduce reliance on solitary confinement**

**Data collection:** To promote more more rational policies in Massachusetts and elsewhere, data collection is necessary. Specifically, federal, state and local jails should be required to report to the Bureau of Justice Statistics:

- How many prisoners are held in solitary in each facility, for how long, and for what reason.
- How prisoners held in solitary compare to other prisoners in incidents of self-harm, assaultive conduct, other disruptive behavior in prison, and recidivism rates.

**Funding:** Federal funding through the Bureau of Justice Assistance or another federal body is needed to support the data collection and to support alternatives to segregation such as therapeutic units and enhanced programming.



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**Comprehensive review of solitary confinement practices:** The data described above should inform a comprehensive review of the use of solitary confinement in the United States. A panel of experts should be appointed to review findings and conduct public hearings with input from all stakeholders and issue recommendations.

**U.S. Department of Justice Rulemaking:** Rulemaking by the Department of Justice can establish evidence-based best practices and prevent abuses that occur daily in prisons throughout the country. Any prison, jail, detention center or juvenile facility receiving federal funds should be subject to regulation setting humane standards. The ABA's *Standards for Criminal Justice, Treatment of Prisoners* related to the use of "segregated housing" should be used as a guideline for policies and practices related to the use of solitary confinement.

**Bureau of Prisons Reform:** The GAO study suggests that solitary confinement is causing needless suffering and waste in the federal prison system. The BOP should be required to reduce its use of solitary confinement, exclude juveniles and those with mental illness from solitary confinement, and reduce rather than increase its ADX ("supermax") capacity.