STATE REFORMS TO LIMIT THE USE OF SOLITARY CONFINEMENT

Over the past few decades, the United States has seen a massive increase in the use of solitary confinement, most noticeably in the building of entire “supermax” prisons designed to hold prisoners in isolation. This practice, in which prisoners are placed alone in cells for 22-24 hours per day with little or no human interaction or outside stimulus, can cause negative psychological reactions in all prisoners subjected to it, and is known to be especially devastating for mentally ill prisoners who are disproportionately represented in solitary confinement. Many prisoners are confined in solitary for months, years, and even decades. Solitary confinement is also extremely costly, and studies have shown that it neither deters violent behavior in prisons nor prevents recidivism.

The devastating human impacts of solitary confinement, scarcity of public dollars, and concerns for public safety demand that we take a second look at the practice of solitary confinement and explore more effective, humane, and less expensive alternatives. In fact, since the June 2012 Congressional hearing on solitary confinement, the Federal Bureau of Prisons (BOP) announced that it has reduced its segregated population by 25 percent and has agreed to a comprehensive and independent assessment of its use of solitary confinement. BOP is the nation’s largest prison system with a population of over 215,000 prisoners. On any given day, more than 15,000 federal prisoners, seven percent of its population, are in solitary confinement.

SUCCESSFUL STATE MEASURES:

Spurred by growing budget deficits, costly litigation arising from unconstitutional treatment, and the public’s objection to inhumane conditions, several states have begun to reform their prison systems to limit the use of long-term solitary confinement:

- In January 2013, the Illinois Department of Corrections (IDOC) closed its supermax prison, Tamms Correctional Center, which was designed to house prisoners in complete isolation. According to the IDOC, Tamms was selected to close in part because it was the most expensive facility to operate; it cost over $60,000 a year – more than three times the state average – to house an inmate at Tamms.

- As a result of a government study, the Maine Department of Corrections recommended tighter controls on the use of special management units (SMUs). Due to subsequent reforms, the SMU population was cut by over 50 percent; expanded access to programming and social stimulation for prisoners was implemented; and personal approval of the Commissioner of Corrections is now required to place a prisoner in the SMU for longer than 72 hours.

- Over the last few years, Mississippi has also revolutionized its use of solitary confinement. In the process, the state reduced the segregation population of one institution from 1000 to 150 and eventually closed the entire unit. Prison officials estimate that diverting prisoners from solitary confinement under Mississippi’s new model saves about $8 million annually. At the same time, changes in the management of the solitary confinement population reduced violence levels by 70 percent.

- The Colorado Legislature required a review of administrative segregation and reclassification efforts for prisoners with mental illness or developmental disabilities. At the same time, the
Colorado Department of Corrections (CDOC) had an external review conducted of its administrative segregation policies and practices. As a result of the reforms implemented through this process in the last few months, CDOC has reduced its administrative segregation population by 36.9 percent.12 The CDOC recently closed a 316-bed administrative segregation facility, which is projected to save the state $4.5 million in Fiscal Year 2012-13 and $13.6 million in Fiscal Year 2013-14.14

- Correctional leaders in Michigan reformed administrative segregation practices through incentive programs that reduced the length of stays in isolation, the number of prisoners subject to such segregation, and the number of incidents of violence and other misconduct. Reduction in segregation has produced better prisoner outcomes at less cost; segregation in Michigan costs nearly double what the state typically pays to incarcerate each prisoner.15

- In New Mexico the state legislature mandated a study on solitary confinement’s impact on prisoners, its effectiveness as a prison management tool, and its costs.16 The Lieutenant Governor of Texas similarly commissioned a study on the use of administrative segregation in the Texas Department of Criminal Justice, including the reasons for its use, its impact on public safety and prisoner mental health, possible alternative prison management strategies, and the need for greater reentry programming for the population.17

### NATIONAL STANDARDS FOR SUCCESSFUL REFORM:

In 2010, after a five-year period of drafting and development with input from judges, prosecutors, defense attorneys, corrections officials, civil liberties groups, and law professors, the American Bar Association approved the Standards for Criminal Justice on the Treatment of Prisoners.18 These standards provide comprehensive guidelines for reforming the use of solitary confinement, including:

- Providing a meaningful evaluation process prior to placing prisoners in segregation;
- Limiting duration of disciplinary segregation;
- Allowing in-cell programming and supervised out-of-cell exercise time;
- Decreasing sensory deprivation by allowing radio, television, phone calls, etc.;
- Limiting deprivation of light and providing adequately nutritious meals;
- Allowing prisoners to gradually gain privileges and lessen restrictions;
- Refraining from placing prisoners with serious mental illness in what is an anti-therapeutic environment. Instead, maintaining appropriate, secure mental-health housing for such prisoners is stressed; and
- Carefully monitoring prisoners in solitary confinement for symptoms of mental health deterioration.

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10 Kupers et al., supra note 8, at 1043.


