



Abolitionist Law Center

Testimony of the Abolitionist Law Center
Presented before the Pennsylvania House Judiciary Committee
March 5, 2024

Good Morning, Thank you members of the Pennsylvania Judiciary Committee for convening this hearing on legislation to end long term solitary confinement in Pennsylvania. My name is Robert Saleem Holbrook and I am the Executive Director of the Abolitionist Law Center, a law project whose work centers on protecting and advancing the human rights and dignity of all prisoners and ending state violence in all its forms. I am also a founding member of the Human Rights Coalition, an organization founded by prisoners and their loved ones to advocate on behalf of the human rights of prisoners. I am a survivor of solitary confinement, having spent a total of ten years in solitary confinement during my twenty seven years of incarceration.

Solitary confinement reform has eluded Pennsylvania lawmakers for decades. As recently as 2021, Senators Katie Muth and Kane held a Senate Policy Hearing on the need to pass Solitary Confinement reform. As far back as in 2010 the Pennsylvania House Judiciary committee held a hearing similar to the one today about the abuses prisoners suffered in solitary confinement and the long term trauma and psychological impact it imposes on prisoners subjected to it. At that time I was incarcerated at SCI-Greene and submitted written testimony to the hearing and helped organize it as an inside member of the Human Rights Coalition. That hearing was the result of a decade of advocacy against solitary confinement in Pennsylvania by the Human Rights Coalition. Unfortunately, despite hearing multiple testimonies by survivors of solitary confinement, the state legislature was unable to come up with legislation that would eliminate the use of long term solitary confinement.

The legislation before us today is a culmination of another long decade of organizing and advocacy by the Human Rights Coalition and Abolitionist Law

Center against long term solitary confinement. We are here today urging legislators to exercise their legislative authority and enact the protections in the legislation this committee is considering.

Long term solitary confinement has been a long problem in Pennsylvania and historically the Pennsylvania Department of Corrections has had a free hand in imposing it to the dismay of prisoners, advocates and community while legislators all too often abdicated their legislative oversight authority. Despite long trials of abuses around solitary confinement Pennsylvania DOC bureaucrats were able to cajole and smooth talk their way into convincing legislators that long term solitary confinement was necessary, not harmful and that if any reforms were needed and they would be in the best position to determine what reforms were needed and how they would be implemented. The reality, however, is the opposite. Any changes to the Pennsylvania Department of Corrections' harmful solitary regime came from outside the Department of Corrections and often the Department would have to be dragged into the courtroom to implement humane reforms. We are here today to try and avoid repeating that cycle.

Some recent examples of this are the 2015 settlement between the Pennsylvania Department of Corrections, U.S. Justice Department and the Disabilities Right Network that compelled the Pennsylvania Department of Corrections to enact widespread changes to its use of long term solitary confinement on prisoners with mental disabilities. The settlement was reached after a lawsuit was filed in 2012 by the Disabilities Rights Network in the case of Disability Right Network Pennsylvania v. John Wetzel, Secretary of the PA Department of Corrections. The DOJ investigation found the Pennsylvania DOC in systematic violation of the American with Disabilities Act and the Eighth Amendment for its use of long term solitary confinement on prisoners with mental health disabilities. The settlement resulted in the DOC agreeing to a complete, statewide overhaul of its policies and practices affecting prisoners with serious mental illness. Among other reforms, the state agreed to stop housing inmates with serious mental illness in the harsh conditions of solitary confinement in the RHU. New treatment units were established to provide increased out of cell time and more frequent access to mental health staff. While there will continue to be secure units for some inmates, even those units must provide significant out-of-cell time both for therapeutic and non-therapeutic activities. These new units and the treatment and programming provided in them were aimed at ensuring that inmates with

serious mental illness have the least amount of restrictions placed on them as clinically necessary. They were an important step, but they were incomplete.

While the DOC today claims it does not hold the mentally ill in solitary anymore as a result of this settlement, this is not true because the majority of the people on their mental health roster are not protected from solitary confinement. According to former DOC Secretary John Wetzel, a quarter of the DOC population are on the mental health roster. The DOC breaks down mental health status as: A, B, C, and D code, with A signifying no mental health status and D signifying the most severe mental health conditions. Within this roster are a class of prisoners classified as c-code cases who have significant mental health issues but who are exempt from the protections of the settlement because the Department of Corrections views them as an intermediate class that drifts in between mental health crisis and mental health stability. And approximately 40% of those held in solitary confinement in the DOC are classified with a c-code.

However, placing C codes in solitary is actually creating more serious mental health cases among this class because solitary confinement is proven to exacerbate existing mental illness. We need legislation that would protect this class of prisoners from prolonged solitary confinement by prohibiting their placement in solitary confinement and more importantly requiring the Department of Corrections to provide secure and healthy housing alternatives to accommodate their mental disabilities.

Recently incarcerated people at the State Correctional Institution (SCI) Fayette have filed a class action lawsuit seeking to end the unconstitutional solitary confinement being imposed on men in the Security Threat Group Management Unit (STGMU). The men filed the lawsuit from their solitary confinement cells, without the assistance of attorneys, in October 2022, and, at their request, a team of lawyers from the Pennsylvania Institutional Law Project (PILP), Abolitionist Law Center (ALC), and Dechert LLP have now entered the case. The plaintiffs, including individuals with serious mental illness, describe being isolated in permanent solitary confinement, which exacerbates their symptoms and has led to self-harm and suicide attempts. They are locked in extremely small cells for at least 22 hours a day, and have virtually no contact with others except when they are taken to small outdoor yard cages for one hour on weekdays.

They are also denied necessary mental health care, prohibited from working, prevented from participating in educational or rehabilitative programs, and barred from attending religious services. "I have endured 3,345 days in solitary confinement, and it has deteriorated me into a shell of who I used to be. For years I have been forced into social isolation, deprived of visits with my family and friends, outdoor exercise, and mental health treatment. On my first day, I attempted suicide three times by hanging myself. I have attempted suicide so many times I have lost count," said Montana Bell, one of the lead plaintiffs in the lawsuit. "We filed this lawsuit because we are suffering immensely and believe no one should experience this. This is torture in its highest form and it must end now." The STGMU holds between 30 and 50 men.

In 2021 a group of prisoners engaged in a hunger strike for over ten days at the SCI Phoenix prison. These men had been moved from long term solitary confinement to a unit named the Intensive Management Unit that they were told was a "step down program," meant to transition them back to the general population. However, after four months of being in the IMU, the men still sat in the same conditions of solitary confinement, were provided no written regulations for the unit, and were never told the process for their pathway out of solitary. Had the media not picked up the story of their hunger strike, this so-called "step down" unit would have left these men--some of whom had already been in solitary for decades--to rot in solitary confinement indefinitely. Ultimately, then-Secretary Wetzel provided a handbook for the unit and reviewed individual cases for transition out of solitary. However, a majority of the men remain in long term solitary confinement.

Just yesterday, the Abolitionist Law Center, PA Institutional Law Project, and Dechert law firm filed a class action lawsuit of unprecedented scope challenging the DOC's solitary confinement practices. The suit seeks to end solitary confinement for anybody with a history of mental illness; prohibit indefinite solitary confinement; provide constitutionally required procedural protections for those subject to solitary; and seeks compensatory and punitive damages for the DOC's persistent failure to adhere to clearly established constitutional norms. This suit is based on a multi-year investigation that has revealed what some of us have known for decades: solitary confinement causes severe harm, dramatically increases self-harm and suicide rates, and fuels a cycle of trauma

that makes both prisons and our communities less safe.

Last, the majority of people in solitary confinement are not there for serious infractions. The majority of people in solitary confinement are there for refusing to obey an order, presence in an unauthorized area, and other non-violent infractions.

"Before collaborating with the Vera Institute, Illinois found that more than 85 percent of the people released from disciplinary segregation during a one-year period had been sent there for relatively minor infractions, such as not standing for a count and using abusive language. In Pennsylvania, the most common violation associated with a sentence to segregated housing was "failure to obey an order," with 85 percent of those written up for this type of violation sent there. This is from the same report, also useful on that point: 'Although many jurisdictions have a list of alternative sanctions that can be used to discipline incarcerated people who are unruly or difficult to manage, the reality is that far too many turn to segregated housing as the first response to bad behavior. This is in stark contrast to the system used in certain European countries, where corrections officers are trained to impose disciplinary measures that are relative and proportionate to the disruptive behavior. Dutch and German prison officials use sanctions such as reprimands, restrictions on money and property, and restrictions on movement or leisure activities. Care is taken to relate the sanction to the alleged infraction.³² In these countries, solitary confinement is used rarely and only for very brief periods of time. For example, an adult male prison in Germany reported using segregation just two or three times in 2012, and another German prison for young adults had utilized its segregation cell twice between 2008 and 2012, and only for a few hours each time'

The DOC has demonstrated a pattern of finding loopholes to get around ending solitary confinement: changing the name of units without changing the conditions, misdiagnosing mental health statuses so vulnerable people remain in solitary, or creating entirely new solitary units under the guise of a step down program or safety measures. In reality, leaving it in the hands of the DOC to end solitary has proven to only result in further harm and torturous conditions being inflicted on

incarcerated people. These people will eventually come back home to our communities. Leaving them isolated in solitary with no human interaction, no sensory stimulation, no mental health treatment in a concrete box will only return them as broken, more deeply traumatized people, if they make it out at all.

It is time for the legislature to take it into your hands to protect our incarcerated people, prison staff, and communities, and finally end long term solitary confinement. The fact is the Department of Corrections cannot be counted on to implement and more importantly sustain long term solitary confinement reforms. That is a task for the legislature, to enshrine solitary reforms into statutory authority and to exercise its oversight of the Department of Corrections.

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