An Act to Restrict the Use of Solitary Confinement, Segregated Confinement and Residential Rehabilitation in Maine's Prisons and Jails

Testimony on behalf of Maine Association of Psychiatric Physicians
by Janis Petzel, MD past president of MAPP (2008-2010)

An Act to Ban Solitary Confinement
Presented by Representative Grayson Lookner

Before the Criminal Justice and Public Safety Committee, February 9, 2022

Senator Deschambault, Representative Warren, and Members of the Criminal Justice and Public Safety Committee,

In 2010, Maine was recognized as a national leader in the fight to restrict the inhumane form of prisoner restriction called solitary confinement. At that time *LD 1611, An Act to Ensure Humane Treatment for Special Management Prisoners* was in front of the Maine Legislature. The public discussion about solitary confinement resulted in Maine's Legislature requiring a study of the use of Administrative Segregation in Maine's prisons.

In 2011, newly appointed Corrections Commissioner, Joseph Ponte, made major changes to the use of techniques that isolated incarcerated people for prolonged periods of time. Use of solitary confinement dropped by 70% at Maine's Supermax prison. Ponte said, "Segregation tends not to fix the problem that the inmate needs to address."

But it was decided that a careful evaluation of the new approach was needed. Commissioner Ponte said, "We had to measure the outcomes. Did we increase inmate violence? And every measure we've had, first in segregation — the acting out, the use of chemicals, the use of force, use of restraint chair — those numbers have dropped significantly, so segregation is a better place. And then we took those same measurements and looked at them in population — inmate assaults, staff assaults, use of force — did they increase after we limited the use of segregation to the more violent offenders? All of our data show us that the situation actually has improved and not gotten worse."

The Maine Association of Psychiatric Physicians, the professional organization for psychiatrists in Maine, of which I was president when LD 1611 came before the Legislature, has been strongly opposed to the use of solitary confinement or long periods of isolation in segregation units. In 2010, we testified in support of LD 1611. Today, we're here in support of LD 696.

Solitary confinement or administrative segregation, which involve 20+ hours a day of unmitigated isolation, has the potential for causing sleep deprivation, exacerbating severe mental illness (SMI), worsening cognition, and crippling coping skills. It can lead to an incarcerated person exhibiting irrational anger, increased impulsivity, cognitive difficulties or confusion, and even psychosis.

Extended isolation has long lasting neurobiological impacts on a prisoner's fight-or-flight response system and increases the mental health risk for Post-Traumatic Stress Disorder and suicide. A 2020 study in Lancet Public Health shows a Hazard Ratio (the risk) for un-natural death (predominantly suicide) of 1.72 for prisoners after isolation of even 7 days or less for up to 5 years after release from the prison. That's a 172% higher risk for un-natural death compared to prisoners who were not in segregation. Even what seems to be a short exposure to isolation in segregation can have lasting negative impacts on the brain and body.

Not surprisingly, a bipartisan national task force, The Commission on Safety and Abuse in America's Prisons, concluded after a year-long investigation in 2006, that that the harm involved is clear. No benefits of solitary confinement could be found. The Commission recommended that the practice of solitary confinement be discontinued.

Per Terry Kupfer, who studies solitary confinement, effective alternatives exist. He writes "effective programs and activities to teach and practice social skills allow even troublesome prisoners more, not less control of their lives" and avoid the feelings of "humiliation and degradation which only breed anger, despair, and the likelihood of further violence."

So, here we are in 2022. As a psychiatrist, I applaud the improvements made for mental health treatment in Department of Corrections facilities and the reductions in administrative segregation started by Commissioner Ponte. Things are better than they used to be.

But, if things are better, why do we need LD 696?

Maine Standards for County and Municipal Detention Facilities states that Administrative Segregation, once initiated, is reviewed every 7 days. A week may seem like a short period of time, but we know from the Lancet Public Health article and other studies, that even a few days in isolation can cause significant psychiatric and neurobiological damage, leading to impulsive, angry, self-injurious or defiant behavior. And thus the vicious cycle of segregation begins.

LD 696 creates a partnership between Maine people, the legislature, and the Maine correctional system by establishing standards of care and enhancing transparency. It provides clear definitions of segregation and solitary confinement, which are still not clear. It eliminates the use of solitary confinement, defined as more than 20 hours alone in a cell a day, and sets standards for lesser forms of segregated confinement.

LD 696 restricts the use of isolation in a cell to reasons of safety, not punishment. It provides for staff training to improve employee safety and job satisfaction (those who work in prisons can suffer significant stress or moral injury—eliminating solitary confinement makes everyone safer).

LD 696 will help those in the correctional system with mental health diagnoses to get the care they need. It will help those leaving prison to have a greater chance of success upon re-entry. And it protects the most vulnerable of those who are incarcerated: young people, the elderly, and pregnant women or those who recently gave birth. ·

The humane care of incarcerated people results in safer communities once a person goes home, and costs taxpayers less money. It's the right time for Maine to continue its path forward in safe, effective corrections.

The doctors of the Maine Assocation of Psychiatric Physicians and I urge you to vote in support of LD 696.

Thank you for your attention to this important legislation.

Sources:

David C. Fathi Director, ACLU National Prison Project April 2010 "Maine has become a national leader in the fight to restrict this uniquely inhumane form of confinement." From email communications of ACLU following LD 1611 hearings.

Reducing solitary confinement How Maine's corrections commissioner dropped supermax numbers by 70 percent . . . and became a national leader in prison reform. By Lance Tapley November 4, 2011 *The Portland Phoenix*

https://www.vera.org/downloads/publications/the-impacts-of-solitary-confinement.pdf

Maine Standards for County and Municipal Detention Facilities. January 20, 2021 https://www.maine.gov/sos/cec/rules/03/201/201c001.pdf which describes Administrative and Disciplinary Segregation, and the rules if a prisoner is placed in the Special Management Unit. Placement in SMU is reviewed every 7 days.

The Routledge Handbook of International Crime and Justice Studies, Eds. Bruce Arrigo & Heather Bersot, Oxford: Routledge, 2013, pp. 213-232. Terry Kupers, author of *CHAPTER 10 Isolated Confinement: Effective Method for Behavior Change or Punishment for Punishment's Sake?*

Solitary confinement placement and post-release mortality risk among formerly incarcerated individuals: a population-based study Christopher Wildeman, Lars H Andersen Lancet Public Health Vol 5, February 2020 e107-113. Even stays of less than a week in solitary confinement are associated with a 172% risk of un-natural death in the 5 years after release (from suicide, homicide or overdose death).

Janis Petzel, MD
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LD 696

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