

Prisoners' Legal Services of New York



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Hearing Before the New York City Board of Correction on Proposed Enhanced Supervision Housing Units

TESTIMONY OF PRISONERS' LEGAL SERVICES OF NEW YORK

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INTRODUCTION

Prisoners' Legal Services of New York (PLS) would like to thank the New York City Board of Correction for holding this public hearing on the creation of 'Enhanced Supervision Housing Units' (ESHU) for certain individuals in the custody of the Department of Correction (DOC). The explosion in the use of solitary confinement in the United States prisons, jails and detention centers over the past thirty years demands an in-depth look into the human, moral, fiscal, and public safety consequences of such confinement. The continued use of solitary confinement in the United States, despite the proven harm it causes, requires serious investigation and continued public discussion and, as such, PLS is thankful for being given the opportunity to submit this testimony.

PLS is a nonprofit legal services organization that was established in 1976 to provide civil legal services to indigent prisoners in New York State correctional facilities on issues associated with their conditions of confinement. PLS was created in response to the Attica uprising, a three-day siege that culminated on September 13, 1971, when then-Governor Nelson Rockefeller ordered state law enforcement agents to forcibly retake control of the Attica prison.¹ The events at Attica forced public attention on the inhumane treatment and living conditions of New York State prisoners and the creation of PLS. As a result, many of those conditions improved. We learned a great deal from "Attica," but with respect to the issue of prolonged solitary confinement, we have lost sight of the most important lesson of all: the need for our criminal justice system to continually assess the effects of the conditions of confinement on prisoners and to consider those effects in light of our evolving standards of decency.

¹That day has come to be known as the day when "the bloodiest prison confrontation in U.S. history" occurred. As a result of the uprising, a special state Commission (the McKay Commission) was created to investigate and report on the incident. After dozens of hearings and thousands of pages of testimony, the McKay Commission issued a report chastising New York State prison authorities for: failing to provide adequate programming and education for prisoners; the lack of any procedures for prisoners to air or resolve their grievances; poor conditions in the prisons; and the overall mistreatment of prisoners.

PLS opposes the proposed changes to the Jail Minimum Standards that would permit implementation of ESHU and would not restrict the known harmful solitary confinement practices in New York City jails. The DOC has proposed the establishment of ESHU, but has not provided the public with the facts to support its asserted need for the units. In addition, the DOC has alleged that ESHU are necessary to reform solitary confinement in NYC jails, but has failed to include in its proposed rules needed reforms of solitary confinement.

The Board should not divert the focus on solitary confinement by the creation of ESHU while at the same time failing to place any rational limitations on solitary confinement. Moreover, the proposed ESHU are far too punitive, lack due process protections, and do not represent the implementation of “best practices” for jail management. If the Board decides to change the Jail Minimum Standards by including ESHU, it must, at the very least, remedy deficiencies in the ESHU proposal **and** include fundamental limitations on solitary confinement so that the Jail Minimum Standards reflect the evolving standards of decency of our society.

Solitary Confinement – A Brief History

The origins of solitary confinement in the United States can be traced to the Walnut-Street Penitentiary in Philadelphia, PA, in 1787.² Advocates thought that solitary confinement would be rehabilitative in nature, believing that prisoners, if left alone with only their conscience and a Bible, would reflect on their bad deeds, come to see the nature of their crimes, and voluntarily reform themselves into law-abiding citizens.³

In 1829, Quakers and Anglicans expanded on this model by constructing Eastern State Penitentiary, a prison comprised entirely of solitary cells along corridors. Shortly thereafter, in 1831, Gustave de Beaumont, a French prison reformer, and Alexis de Tocqueville, a French political thinker and historian, traveled to America to examine its prison and penitentiary systems and found the following with respect to the use of solitary confinement:

This experiment, of which the favourable results had been anticipated, proved fatal for the majority of prisoners. It devours the victim incessantly and unmercifully; it does not reform, it kills. The unfortunate creatures submitted to this experiment wasted away. . .⁴

² See *In re Medley*, 134 U.S. 160, 168 (1890) (describing conditions in a Philadelphia Penitentiary circa 1787).

³ See SHARON SHALEV, A SOURCEBOOK ON SOLITARY CONFINEMENT 2 (2008); see, e.g., Craig Haney & Mona Lynch, *Regulating Prisoners of the Future: A Psychological Analysis of Supermax and Solitary Confinement*, 23 N.Y.U. REV. L. & SOC. CHANGE 477, 481—82 (1997).

⁴ Haney & Lynch, *supra* note 4, at 483. Another commentator observed that the prison reforms at Auburn, New York were a “hopeless failure that led to a marked prevalence of sickness and insanity on the part of the convicts in solitary confinement.” *Id.* at 484.

Charles Dickens, in 1842, described conditions of prisoners under solitary confinement in Pennsylvania as follows:

[T]here is a depth of terrible endurance in it which none but the sufferers themselves can fathom . . . this slow and daily tampering with the mysteries of the brain [is] immeasurably worse than any torture of the body.⁵

In 1890, in the case of *In Re Medley*, the U.S. Supreme Court condemned the use of solitary confinement, setting forth the scientific evidence regarding the use of solitary confinement and noting that:

A considerable number of the prisoners fell, after even a short confinement, into a semi-fatuous condition, from which it was next to impossible to arouse them, and others became violently insane; others still, committed suicide; while those who stood the ordeal better were not generally reformed, and in most cases did not recover sufficient mental activity to be of any subsequent service to the community.⁶

The nearly universal consensus of observers that solitary confinement was both inhumane and ineffective as a rehabilitative tool led to its general abandonment in America for over a century. But its use was renewed in the mid 1900's, not as a rehabilitative measure, but as a prison management tool.⁷

Solitary Confinement Today

Since that time, we have learned even more about the effects of solitary confinement on humans. The long-time concerns of corrections experts, medical and psychiatric expert, academic and religious scholars, and advocates regarding the harmful effects of solitary confinement continue to be reinforced and legitimized.⁸ In addition, there have been extensive investigations done and reports written, concerning the use of solitary confinement.⁹

⁵ New York City Bar Assoc., Comm. on Int'l Human Rights, *Supermax Confinement in U.S. Prisons* p. 6 (2011) (hereafter 'NYCBA COMM.')

⁶ *In re Medley*, 134 U.S. 160, 168 (1890).

⁷ H. Daniel Butler et al., *Supermax Prisons: Another Chapter in the Constitutionality of the Incarceration Conundrum*, 9 RUTGERS J.L. & PUB. POL'Y, 1, 25 (2012).

⁸ See, for example, Bureau of Prisons: *Improvements Needed in Bureau of Prisons Monitoring and Evaluation of Impact of Segregated Housing*, May 1, 2013, available at: <http://www.gao.gov/products/GAO-13-429>; Berger, et. al., *Commentary: Toward an Improved Understanding of Administrative Segregation*, *Psychiatry Law*, vol. 41 no. 1, pp.61-64 (Response to O'Keefe, *A Longitudinal Study of Administrative Segregation*, et al., *J. Am. Acad. Psychiatry Law*, vol. 41 no. 1, pp. 49-60) Mar. 1, 2013; American Academy of Child and Adolescent Psychiatry, *Statement Against Youth in Solitary*, April 2012; American Psychiatric Association, *APA Position Statement on Segregation of Prisoners with Mental Illness* (2012); American Public Health Association, *Addressing Solitary Confinement as a Public Health Issue* (2013, Full Policy Statement Available in Early 2014) ;220th General Assembly of the

We now have even more proof that individuals subjected to solitary confinement are more likely to engage in self-harm.¹⁰ We have more proof that individuals subjected to long term isolation become more, rather than less, violent.¹¹ We have witnessed individuals who have spent their entire professional lives working in the field of corrections coming to the conclusion that solitary confinement does not rehabilitate.¹² We have learned that, in most cases, severe isolation actually increases, rather than decreases recidivism and thus threatens public safety.¹³ We have learned that best practices do not support the use of solitary confinement and that evidence-based policies and treatment practices are what should govern our decision-making in the criminal justice sphere.¹⁴ Finally, with respect to the use of solitary confinement in New York State, we have learned more about the racial disparities and arbitrariness in the imposition of solitary confinement penalties.¹⁵

Human rights experts across the world, including Human Rights Watch, the Human Rights Committee and the Committee against Torture, have criticized the use of long term solitary confinement.¹⁶ In May of 2000, the U.N. Committee against Torture issued a report expressing

Presbyterian Church (USA), *Commissioner's Resolution on Prolonged Solitary Confinement in US Prisons*, 2012; The National Catholic Review, *We Are One Body*, America July 15 – 22, 2013, available at: <http://americamagazine.org/issue/we-are-one-body>; New York State Council of Churches: Resolution Opposing the Use of Prolonged Solitary Confinement in the Correctional Facilities of New York State and New York City, Sept. 2012; ACLU, Stop Solitary Campaign available at: <https://www.aclu.org/we-can-stop-solitary>. For a complete list of the most up-to-date comments on solitary confinement see: ALCU, *Solitary Confinement Resource Materials*, available at:

<https://www.aclu.org/files/assets/Solitary%20Confinement%20Resource%20Materials%2012%2017%2013.pdf#page=14>.

⁹ See, for example, New York Civil Liberties Union, “*Boxed In – The True Cost of Extreme Isolation in New York’s Prisons*” p. 8. (Oct. 3, 2012) (hereinafter NYCLU “*Boxed In*”) available at:

<http://www.nyclu.org/publications/report-boxed-true-cost-of-extreme-isolation-new-yorks-prisons-2012>.

¹⁰ Associated Press, *Inmates in Solitary Confinement 7 Times More Likely to Harm Themselves: Study*, Feb. 13, 2014, available at: <http://www.cbsnews.com/news/inmates-in-solitary-confinement-7-times-more-likely-to-harm-themselves-study/> citing American Journal of Public Health peer-review study of New York City jail inmates confined to solitary confinement.

¹¹ Erica Goode, *Rethinking Solitary confinement*, N.Y TIMES, Mar. 11, 2012, at A1. This article is available online under the title, “*Prisons Rethink Isolation, Saving Money lives and Sanity*,” available at <http://www.nytimes.com/2012/03/11/us/rethinking-solitary-confinement.html?pagewanted=all>.

¹² George H. Bohlinger, III, *The Cruelty of Solitary Confinement*, October 28, 2013, available at: http://www.washingtonpost.com/opinions/the-cruelty-of-solitary-confinement/2013/10/28/3c3e3ffa-3da6-11e3-b0e7-716179a2c2c7_story.html.

¹³ Lovell & Johnson, “*Felony and Violent Recidivism Amount Supermax Prison Inmates in Washington State*,” available at: <http://www.son.washington.edu/faculty/fac-page-files/Lovell-SupermaxRecidivism-4-19-04.pdf>.

¹⁴ American Public Health Association Policy Statement 201310 Addressing Solitary Confinement as a Public Health Issue, Nov. 5, 2013, available at:

<http://www.apha.org/about/news/pressreleases/2013/2013adoptedpolicystatements.htm>.

¹⁵ NYCLU “*Boxed In*” *supra* note 9, pp. 23-25.

¹⁶ Given the absence of an international standard for its permitted maximum overall duration, the Human Rights Council’s Special Rapporteur on Torture, Juan Mendez, has suggested “15 days as the limit between solitary confinement and prolonged solitary confinement, since at that point, according to his research, some harmful psychological effects of isolation could become irreversible.” <http://www.un.org/News/Press/docs/2011/gashc4014.doc.htm> See also:

concern over “[t]he excessively harsh regime of the ‘supermaximum’ prisons” in the United States.¹⁷ In 2008, U.N. Special Rapporteur to the Human Rights Council noted that “the use of prolonged solitary confinement may amount to a breach of article seven of the International Covenant on Civil and Political Rights,”¹⁸ and that it “should be strictly and specifically regulated by law.”¹⁹ Presidential hopeful John McCain talked about his experience in solitary confinement as a prisoner of war in Vietnam where he spent five and a half years in isolation in a fifteen-by-fifteen-foot cell.²⁰ He stated: “It’s an awful thing, solitary [i]t crushes your spirit and weakens your resistance more effectively than any other form of mistreatment.”²¹

In Europe, solitary confinement has rarely been used since a 1982 decision from the European Commission stated that “[c]omplete sensory isolation coupled with total social isolation, can destroy the personality and constitutes a form of treatment which cannot be justified by the requirements of security or any other reason.”²² Conditions at supermax facilities in the United States have also allowed prisoners to successfully resist extradition to the United States from foreign nations.²³

Legal organizations in America have also begun to adopt stances critical of solitary confinement and supermax facilities. In 2011, the New York City Bar Association Committee on International Human Rights (NYCBA) recognized that the state of the law is increasingly critical of solitary confinement, and took a strong stance against it:

<http://www.hrw.org/en/news/2010/03/22/solitary-confinement-and-mental-illness-us-prisons>

¹⁷ U.N. Comm. against Torture, *Report of the Committee against Torture*, Supp. No. 44, U.N. Doc. A/55/44, May, 2000, at 32, available at: <http://www.un.org/documents/ga/docs/55/a5544.pdf>.

¹⁸ See NYCBA COMM., *supra* note 5, at 18.

¹⁹ *Id.*

²⁰ Most, if not all, of New York’s single isolation cells are much smaller than this.

²¹ Antul Gwande, “Hellhole,” *New Yorker*, March 2009. “And this comes from a man who was beaten regularly; denied adequate medical treatment for two broken arms, a broken leg, and chronic dysentery; and tortured to the point of having an arm broken again. A U.S. military study of almost a hundred and fifty naval aviators returned from imprisonment in Vietnam, many of whom were treated even worse than McCain, reported that they found social isolation to be as torturous and agonizing as any physical abuse they suffered.”

²² *Id.* at 20 (quoting) *Krocher v. Switzerland*, 34 Eur. Comm’n H.R. Dec. & Rep. 24, 53, P 62 (1982); see, e.g., Elizabeth Vasiliades, *Solitary Confinement and International Human Rights: Why the U.S. Prison System Fails*, 21 AM. U. INT’L L. REV. 71, 93-94 (2005).

²³ NYCBA COMM., *supra* note 5, at 20–21 (“In the 1989... the European Court refused extradition to the United States based on the extreme psychological effects of confinement on death row. . . . The European Court is also considering whether supermax conditions in US prisons violate Article 3 of the European Convention, which prohibits the extradition to a state where the prisoner is at risk of inhuman and degrading treatment. Babar Ahmad, a British citizen, and three others, were indicted in the US on terrorism charges. The Court blocked the extraditions and as of July 2011 was considering whether the defendants’ post-trial confinement to the federal supermax prison amounts to a violation of Article 3 of the European Convention.”) (internal citations omitted).

The policy of supermax confinement, on the scale which it is currently being implemented in the United States, violates basic human rights. We believe that in many cases supermax confinement constitutes torture under international law according to international jurisprudence...[t]he time has come to critically review and reform the widespread practice of supermax confinement.²⁴

The authors of the NYCBA report took note of the Constitutional dimensions as well:

Although the Constitution “does not mandate comfortable prisons,” it does require humane prisons that comport with the Eighth Amendment’s prohibition against punishments that are “incompatible with ‘the evolving standards of decency that mark the progress of a maturing society’” or which “involve the unnecessary and wanton infliction of pain.”²⁵

Other professional organizations, as well as numerous advocacy groups, both secular and religious, have followed suit.²⁶ The New York State Bar House of Delegates has adopted a resolution calling upon all governmental officials charged with the operation of prisons and jails throughout New York State to profoundly restrict the use of long-term solitary confinement and urging that the imposition of long-term solitary confinement on persons in custody beyond 15 days be proscribed.²⁷ There has been legislation introduced in at least 12 states to reduce or eliminate the use of solitary confinement.²⁸ There has also been an extensive investigation into the use and abuse of solitary confinement in New York.²⁹

Meanwhile, public opinion on the issue of solitary confinement has become decidedly negative, with numerous commentators from various backgrounds speaking out against it with

²⁴ *Id.* at 2 (quoting *Rhodes v. Chapman*, 452 U.S. 337, 349 (1981); *Estelle v. Gamble*, 429 U.S. 97 (1976) (internal citations omitted)).

²⁵ *Id.* at 5.

²⁶ See, e.g., Nat’l Comm’n Assoc., Resolution Regarding Extended Solitary Confinement and Torture, Nov. 2010, available at

http://www.natcom.org/uploadedFiles/About_NCA/Leadership_and_Governance/Public_Policy_Platform/PDF-PolicyPlatform-Resolution_Regarding_Extended_Solitary_Confinement_and_Torture.pdf; NAT’L RELIGIOUS CAMPAIGN AGAINST TORTURE (NRCAT), *Statement Against Prolonged Solitary Confinement* (last visited Mar. 15, 2012), http://www.nrcat.org/index.php?option=com_content&task=view&id=546&Itemid=396; Tanya Greene, *ACLU To United Nations: Solitary Confinement Violates Human Rights*, AMERICAN CIVIL LIBERTIES UNION (Mar. 5, 2012), <http://www.aclu.org/blog/prisoners-rights/aclu-united-nations-solitary-confinement-violates-human-rights>.

²⁷ New York State Bar Association Committee on Civil Rights Report to the House of Delegates, *Solitary Confinement in New York State*. New York presented to and approved by the NYS Bar Association House of Delegates, January 25, 2013, available at: <http://www.nysba.org/WorkArea/DownloadAsset.aspx?id=26699>.

²⁸ American Civil Liberties Union, *Solitary Confinement Resource Materials*, pp. 14-15, available at: <https://www.aclu.org/files/assets/Solitary%20Confinement%20Resource%20Materials%2012%2017%2013.pdf#page=14>

²⁹ NYCLU “*Boxed In*” *supra* note 9.

greater frequency in recent years.³⁰ These groups, taken together with the international law regarding the use of solitary confinement, as well as the customs of other civilized nations, make a compelling case that long term solitary confinement no longer falls within the ambit of “evolving standards of human decency that mark the progress of a maturing society.”³¹

Most telling, however, may be the position of the Lance Lowry, the President of the AFSCME Texas Correctional Employees Union. Mr. Lowry has, on a number of recent occasions, acknowledged a change in the position of the Union with respect to the use of solitary confinement.³² In a February 2014 blog post, to support the Union’s position that the use of any form of solitary confinement should be significantly reduced, Mr. Lowry cited to “a February 2014 study published in *The American Journal of Public Health* [which] found that New York City jail inmates placed in solitary confinement were nearly seven times as likely to harm themselves as those in the general jail population. The study found the effects of solitary conditions on juveniles and the severely mentally

³⁰ See, e.g., Locke Bowman, *Gov. Quinn's Proposal to Close Tamms Supermax Prison Got It Right*, HUFFINGTON POST (Mar. 13, 2012, 4:28 PM), http://www.huffingtonpost.com/locke-bowman/gov-quinns-tamms-supermax-prison_b_1342135.html (condemning conditions at Tamms Prison in Illinois); Bill Quigley, *Bradley Manning, Solitary Confinement, and Occupy 4 Prisoners*, HUFFINGTON POST (Feb. 23, 2012, 3:43 PM), http://www.huffingtonpost.com/bill-quigley/bradley-manning-solitary-_b_1296141.html (referring to solitary confinement of Bradley Manning as “torture”); James Ridgeway, *Bradley Manning’s Tortuous Treatment Met by Growing Resistance*, MOTHER JONES (Mar. 18, 2011, 9:02 AM), <http://motherjones.com/mojo/2011/03/bradley-mannings-solitary-confinement-meets-growing-resistance> (describing protests against Bradley Manning’s conditions of confinement); Susan Greene, *The Gray Box: An Investigative Look at Solitary Confinement*, DART SOCIETY (Jan. 24, 2012, 9:53 PM), <http://www.dartsocietyreports.org/cms/2012/01/the-gray-box-an-original-investigation/>; *The Abuse of Private Manning*, N.Y. TIMES (Mar. 14, 2011), http://www.nytimes.com/2011/03/15/opinion/15tue3.html?_r=1; Stephen F. Eisenman, *The Resistable Rise and Predictable Fall of the U.S. Supermax*, MONTHLY REVIEW (Nov. 2009), <http://monthlyreview.org/2009/11/01/the-resistable-rise-and-predictable-fall-of-the-u-s-supermax> (noting that some prisoners intentionally hurt themselves in order to be taken out of their isolation cells); Joseph B. Allen, *Applying Graham v. Florida to Supermax Prisons*, 20 WM. & MARY BILL RTS. J. 217 (2011) (seeking to expand the scope of the Eighth Amendment protection offered to prisoners in solitary confinement); Kiilu Nyasha, *America’s Supermax Prisons do Torture*, OPEDNEWS.COM (Nov. 22, 2009, 9:52 PM), <http://www.opednews.com/articles/America-s-Supermax-Prisons-by-Kiilu-Nyasha-091122-501.html>; *Supermax: A Clean Version of Hell*, CBS NEWS (Oct. 14, 2007), <http://www.cbsnews.com/stories/2007/10/11/60minutes/main3357727.shtml?tag=contentMain;contentBody>; Laura Sullivan, *As Populations Swell, Prisons Rethink Supermax*, NPR (July 27, 2006), <http://www.npr.org/templates/story/story.php?storyId=5587644> (mentioning warden of Oregon State penitentiary); Maria Godoy, *Q&A: Solitary Confinement and Human Rights*, NPR (July 27, 2006), <http://www.npr.org/templates/story/story.php?storyId=5586937> (interviewing Jamie Fellner of Human Rights Watch); Julia Dahl, *Is it Time to Ban Solitary Confinement?*, THE CRIME REPORT (Oct. 12, 2009), <http://www.thecrimereport.org/archive/is-it-time-to-ban-solitary-confinement/#>; Lance Tapley, *Torture in Maine’s Prison*, PORTLAND PHOENIX (Nov. 11, 2005), http://www.portlandphoenix.com/features/top/ts_multi/documents/05081722.asp.

³¹ *Estelle v. Gamble*, 429 U.S.97, 102.

³² See testimony of Lance Lowry on behalf of the AFSCME Texas Correctional Employees Union submitted to the Senate Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights at its second hearing on solitary confinement on February 25, 2014, available at: <http://solitarywatch.com/wp-content/uploads/2014/02/Lance-Lowry-Senate-Hearing-Submission.pdf>.

ill was profound.”³³ As Mr. Lowry suggests, it is becoming increasingly clear that long term solitary confinement is not only unnecessary, but counterproductive as a means of maintaining institutional protection, discipline and safety in correctional facilities.³⁴

As such, the continued use thereof constitutes an “unnecessary and wanton infliction of pain,” which ought to be rejected, both in law and morality. We urge this committee to recognize that our evolving standards of decency can no longer tolerate the wide-spread use of long-term solitary confinement in our prisons and jails.

Proposed Enhanced Supervision Housing Units

The DOC claims that ESHU are not punitive. Yet, the proposed ESHU would indefinitely house individuals who are not serving a disciplinary sanction, under highly restrictive conditions. The proposed ESHU restrictions are extreme, cumulative, and inflexible: reduction in out-of-cell time from 14 hours per day to 7 hours per day, inability to use the jail law library (replacing it with the in cell law library service that has proven inadequate in the jails’ punitive segregation housing areas), inability to attend congregate religious services outside the ESHU, deprivation of all contact visits regardless of risk, packages limited to approved vendors and a “permissible items list” (*i.e.*, families, most of whom are from the City’s poorest communities, must always purchase new items for their family member), strip searches and mechanical restraints every time the person leaves the housing unit, and opening and reading all incoming and outgoing non-privileged mail.

Vulnerable populations such as individuals with mental illness, physical disability, physical injury, or young people (other than 16 and 17 year olds) are not excluded. The proposal includes no periodic review of the continuing need for restricted confinement, no anti-violence or educational programming, no opportunity to earn early release, or even some relaxation of restrictive conditions. This failure to provide programs and incentives for good behavior is not a “best practice” in jail management. As proposed, the ESHU is an inhumane set of restrictions intended to be imposed without the possibility of redress.

Recommendations

- **Change the culture from one of punishment to one of treatment:** *Fundamentally transform how our public institutions respond to incarcerated peoples’ needs and alleged behaviors/threats, from inhumane and counterproductive isolation and deprivation to alternative therapeutic and rehabilitative units that provide additional support, programs,*

³³ <http://tdcjbackgate.blogspot.com/2014/02/reducing-prison-violence-by-thinking.html>.

³⁴ Erica Goode, *Rethinking Solitary confinement*, N.Y TIMES, Mar. 11, 2012, at A1. This article is available online under the title, “Prisons Rethink Isolation, Saving Money lives and Sanity,” available at: <http://www.nytimes.com/2012/03/11/us/rethinking-solitary-confinement.html?pagewanted=all>.

and treatment together with meaningful out-of-cell time and human interaction;

- **Restrict Reasons Why Solitary Can be Imposed:** *Drastically restrict the criteria that can result in separation from the general prison population to the most egregious conduct;*
- **Limit Length of Solitary Confinement:** *End long term isolation beyond 15 days as called for by the UN Special Rapporteur;*
- **Allow Meaningful Out-of-Cell Time for Those in Solitary:** *Every person in solitary confinement should be allowed 4 hours out of cell daily at a minimum, with meaningful access to programs, services, and social activity.*
- **Create an Alternative Disciplinary System:** *Develop a disciplinary system that provides incentives for positive behavior, offers out-of-cell programming tailored to the individual's needs, and establishes alternative sanctions for behavior that violates nonviolent disciplinary rules.*
- **Ban Solitary for Vulnerable Populations:** *Ban any length of time of solitary confinement for people who are more vulnerable either to the effects of isolation itself or additional abuses while in isolation, including young people, elderly people, people with physical disabilities, people with mental health or addiction needs and pregnant women;*
- **Train Staff:** *Better equip and train staff to effectively work with incarcerated persons by providing anti-violence, dispute resolution, and communication skills training, as well as, training in recognizing signs of psychiatric distress.*
- **Improve Due Process Protections:** *Make the processes resulting in solitary fairer, including legal representation at hearings and upon appeal; and*
- **Improve Transparency:** *Make the entire process involving the implementation of solitary confinement or separation more transparent, including mandatory reporting requirements with more accountability through independent outside oversight.*

PLS urges the Board not to approve the current proposed rule without incorporating needed reforms as discussed herein.

Dated: December 19, 2014

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