

Solitary Confinement:

Ending the Over-Use of Extreme Isolation in Prison and Jail

A Report on a Colloquium to Further a National Consensus
September 30 – October 1, 2015

Solitary Confinement:

Report on a Colloquium to Further a National Consensus On Ending the Over-Use of Extreme Isolation in Prisons

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September 30 – October 1, 2015

John Jay College of Criminal Justice
New York City

Acknowledgments

John Jay College wishes to thank the Jacob and Valeria Langeloth Foundation for making this project possible. The Foundation is committed to promoting effective and creative programs, practices, and policies related to healing from illness, accident, physical, social or emotional trauma, and to extending the availability of programs that promote healing to underserved populations. They have taken a leading position in supporting efforts to ameliorate the effects of extreme social isolation and, through their efforts, have moved the conversation forward in important ways. This Colloquium was conceived to further that work.

We are very grateful to the committed corrections executives and the advocates who took three days from their busy schedules to participate in this ambitious effort to find areas of consensus on a very challenging topic. This was a working meeting and no one worked harder than the three facilitators who guided the work groups in addressing a range of difficult questions: Brian Fischer, retired Commissioner, New York State Department of Corrections and Community Supervision; Andie Moss, President of The Moss Group, Inc.; and Professor Michael Mushlin of Pace University Law School. Their leadership was supported and documented by our able team of reporters: Susruta Sudula and Jennifer Peirce of John Jay, Abigail Marion and Nick Reck of Columbia Law School, and Erika Danielsen and Sarah Lusk of Pace University Law School.

This Colloquium was designed and directed by Martin Horn and was made possible through the support of the staff of the Prisoner Reentry Institute (PRI) at John Jay College of Criminal Justice. We particularly wish to thank Daonese Johnson-Colón and Aimée Baker, whose skill and perseverance ensured that the Colloquium would be well managed, and Lila McDowell who was involved in the production of this report. We also thank Cindy Reed, our editor, who sought to make sure that the hard work of the group was presented in a manner that could benefit others wrestling with similar issues.

Finally, the outcome of the Colloquium, these discussions, and our recommendations are the result of the commitment and hard work of our facilitators: Brian Fischer, retired Commissioner, New York State Department of Corrections and Community Supervision; Andie Moss, President of The Moss Group, Inc.; and Professor Michael Mushlin of Pace University Law School. Their leadership was supported and documented by our able team of reporters: Susruta Sudula and Jennifer Peirce of John Jay, Abigail Marion and Nick Reck of Columbia Law School, and Erika Danielsen and Sarah Lusk of Pace University Law School.

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About The Jacob & Valeria Langeloth Foundation

The Langeloth Foundation views the field of healing broadly, recognizing that in many cases helping people to heal may also help to prevent future problems. The constitution of the World Health Organization defines health as a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity. For the Langeloth Foundation, healing is seen as including not only physical recovery from illness, accident or trauma, but also the emotional dimensions of recovery.

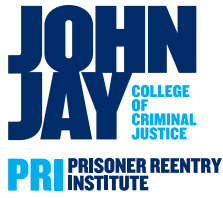
The Foundation's grant-making program is centered on the concepts of health and well-being. The Foundation's purpose is to promote and support effective and creative programs, practices and policies related to healing from illness, accident, physical, social or emotional trauma, and to extend the availability of programs that promote healing to underserved populations.

The Foundation is particularly interested in funding programs that address the health of individuals who, because of barriers to accessing care, experience poor and sub-optimal health, including: those with no or severely limited income, cultural differences, lack of English language skills, lack of health insurance or inadequate health insurance, limited access to health care services, mental illness, substance abuse, homelessness, incarceration, and exposure to trauma. More specifically, the Foundation favors proposals that seek to promote healing, healthy lives and healthy communities through:

- Innovative demonstration projects that address a major gap in the field
- Outreach to communities and populations whose health care needs are not being met
- Targeted advocacy efforts for vulnerable populations
- Collaboration among providers and other organizations

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About John Jay College Of Criminal Justice

John Jay College of Criminal Justice of The City University of New York is an international leader in educating for justice, offering a rich liberal arts and professional studies curriculum to upwards of 15,000 undergraduate and graduate students from more than 135 nations. In teaching, scholarship, and research, the College approaches justice as an applied art and science in service to society and as an ongoing conversation about fundamental human desires for fairness, equality, and the rule of law.

John Jay is a community of motivated and intellectually committed individuals who explore justice in its many dimensions. The College's liberal arts curriculum equips students to pursue advanced study and meaningful, rewarding careers in the public, private, and non-profit sectors. Its professional programs introduce students to foundational and newly emerging fields and prepare them for advancement within their chosen professions.

Martin F. Horn is the Distinguished Lecturer in Corrections at the John Jay College and serves as Executive Director of the New York State Sentencing Commission by appointment of the Chief Judge of the State of New York. He served as Commissioner of the New York City Department of Probation and simultaneously as Commissioner of the New York City Department of Correction, the City's jail system. For five years, Horn served as Pennsylvania's Secretary of Corrections. Earlier, Horn was executive director and chief operating officer for the New York State Division of Parole and held a variety of positions within the Department of Correctional Services, including Superintendent of Hudson Correctional Facility.

The Prisoner Reentry Institute (PRI), directed by Ann Jacobs, is one of twelve institutes that collectively comprise the Research Consortium of John Jay College of Criminal Justice. The mission of PRI is to spur innovation and improve practice in the field of reentry by advancing knowledge, translating research into effective policy and service delivery, and fostering effective partnerships between criminal justice and non-criminal justice disciplines.

Professor Horn and PRI collaborated on designing and conducting the Colloquium on Solitary Confinement.

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Report on a Colloquium to Further a National Consensus on Ending the Over-Use of Extreme Isolation in Prisons

Executive Summary

With support from the Jacob and Valeria Langeloth Foundation, on September 30, 2015, John Jay College of Criminal Justice convened a colloquium including 15 corrections agency heads and a like number of attorneys, academics, and experts from the community of those seeking to reform the use of social isolation, often called “solitary confinement,” in U.S. prisons and jails.

The purpose of the Colloquium was to determine if consensus might be achievable about ways to reform the use of social isolation by coming to common agreement rather than resorting to litigation. To facilitate discussion, all participating parties agreed to be bound by the “Chatham House Rule,” that provides that the outcomes and discussion would be limited to the participants and that the report would not identify discussants by name or affiliation and that in the future the participants would not make reference to statements or admissions by other participants. The result was a remarkable two-day experience that generated a great deal of argument and debate, as well as an equally exciting degree of agreement and consensus. Instead of advocates and corrections officials experiencing an “us versus them” mentality, participants engaged in furthering what one attendee called “a shared mission and goal, but with different intelligences about the pathways to and barriers resisting change.”

The gathering provided a first opportunity for many to meet with those they might previously have considered policy adversaries, enabling them to listen to and consider the other side’s point of view, forge new friendships and alliances, and establish the basis for constructive conversation. An energized group emerged from the meeting united in the belief that the United States can do better to both limit how it employs extreme social isolation and to ameliorate many of the most damaging results from its overuse.

As a result of the deliberations, several clear themes and areas of agreement became apparent:

- *The use of social isolation is greater than it has to be, in large measure because prisons have been called upon to do things they were never intended to do and are inadequately resourced to accomplish.*
- *Persons with mental illness and other vulnerable populations who do not require imprisonment should be treated elsewhere.*
- *The only criterion for confining a person to social isolation within prison should be behavior; persons should not be confined based upon their affiliation or status.*
- *If isolation is used at all, a person should be separated from the general population for the least amount of time necessary and under the least restrictive conditions.*
- *Separation from general population must always provide for adequate living conditions, meaningful routine, and periodic medical and mental health assessments.*
- *Transparency and accountability in the use of segregated housing is essential.*
- *Decisions about the use of social isolation in prison for disciplinary reasons should be made using an appropriate due process procedure.*
- *The use of isolated confinement should be a last resort, and prison discipline should develop alternatives to isolated confinement as punishment, incorporating a continuum of measures to hold incarcerated persons proportionately accountable for their behavior.*
- *Multi-disciplinary teams should make decisions about the use of segregation in prison for other reasons, with a view toward improving outcomes.*
- *Isolated confinement for non-disciplinary reasons should not feel punitive to the affected individual.*
- *The purpose of isolated confinement must be to improve the outcome for the affected individual and to make the prison and the community safer. To that end, there must be meaningful interventions designed to address the reasons for the confinement and attainable means for the individual to transition back to the general population of the prison.*
- *Wherever and whenever possible, opportunities to relieve the social isolation of the confined individual should be employed.*
- *Corrections administrators and advocates for incarcerated persons must work together to obtain political and financial support for needed changes.*
- *Efforts should be made to educate line corrections staff about the utility of reform.*

These themes are reflected in the 24 specific recommendations contained at the end of this report, which can serve as a roadmap for reform. The road to reforming and reducing the use of extreme social isolation will be long and there remains much to be done. But, as the proverb says, a journey of a thousand miles begins with a single step. These recommendations can serve as the map to the first turn.

Introduction

Over the last three decades, corrections systems have increasingly relied on isolation and segregation as a prison management tool, even building entire “supermax” prisons where prisoners are held in extreme social isolation, often for years or even decades. The massive increase in the numbers of men, women, and children behind bars has placed extreme stress on existing facilities, corrections systems, and criminal justice budgets, which struggle to accommodate the unprecedented growth in population without the resources or political support necessary to create rehabilitative environments. Prison administrators were left with few tools to keep their prisoners safe and to enforce reasonable prison rules. This fostered an environment where the use of extreme social isolation and segregation became the default approach to addressing many of the complex challenges faced in operating places of detention and incarceration. On an average day in 2011–12, for example, up to 4.4% of the state and federal prison inmates and 2.7% of jail inmates were held in administrative segregation or extreme social isolation. Based on current prisoner populations, this translates into 69,000 state and federal prisoners and 20,100 jail inmates.¹

Both legal and medical professionals have come to criticize extreme social isolation as unconstitutional and inhumane, pointing to the well-known harms associated with placing people, especially those with mental illness, in such confinement.² Research is also emerging which suggests that extreme social isolation can actually have a negative effect on public safety.³ The results of this questioning of the status quo can be seen in administrative and legislative reform now occurring in jurisdictions around the country.⁴ Corrections organizations are engaging on the topic and beginning to develop guidelines for the field.⁵ Civil rights and human rights organizations, faith community leaders, lawyers, and mental health organizations all have called for reforms in policy and practice. There is a broad and emerging sense that the use of solitary confinement has gone too far in American correctional facilities. Promising approaches are emerging in some jurisdictions and political space is opening up for reform in numerous states.

While opinions on how to reform the use of isolation differ, common ground exists among corrections practitioners, academics and experts, and prison advocates on the need for change. This consensus provides a unique opportunity to form unlikely partnerships and explore alternative approaches to public engagement on one of the most pressing challenges to the safe, effective, and humane management of our prisons and jails: the over-use of prolonged social isolation.

To leverage this common ground, on September 30, 2015, John Jay College of Criminal Justice, with support from the Langeloth Foundation, convened a two day meeting between 15 corrections leaders, including state corrections directors and leading officials from the major urban jails, and 15 experts, academics, and leaders in the advocacy community working for reform of isolation practice. The goal of the meeting was to bring together these leaders to plan next steps, forge greater connections and collaborations, identify “lessons learned” from efforts to date, and formulate plans to ensure sustainability for a reform effort that still has much to accomplish.

Advocates and administrators emerged from the Colloquium unified in the belief that we must seize the momentum of the day to address and reduce the overuse of extreme social isolation across its myriad incarnations. The Colloquium demonstrated that while different constituents have different priorities, they share the overarching goal of creating a safe, measured, and humane correctional environment. Just as importantly, a reasoned discussion is not only possible, but also essential to progress.

Seizing on the increasingly recognized need for reform, the Colloquium facilitated a candid and productive discussion among key figures of the prison policy community regarding the use of extreme social isolation. From top correctional officials in 15 states to representatives from the ACLU, the Center for Constitutional Rights, the National Alliance for the Mentally Ill, and other organizations, many contrasting perspectives were brought to the table.⁶ While disagreements remain, a single thread united the two days of spirited discussion: We have arrived at an extraordinary moment in time where real change is possible.

The outcome of the Colloquium is this document – a written reform agenda bearing the imprimatur of the participants and carrying “weight” in each of their communities of practice. In subsequent reports, John Jay College will document the changes and improvements resulting in the participating jurisdictions and identify the barriers that may have impeded their reform efforts.

Format and Themes

Case Study Presentations. The first day of the Colloquium began with presentations setting forth three case studies of reform: (i) reduction of segregation in Washington State; (ii) removal of the seriously mentally ill from administrative segregation in Colorado; and (iii) reforms for youth at Rikers Island in New York City. This opening session framed the successes and challenges of these approaches and built in time for lively discussion and comparative analysis among participants.

Small Group Sessions. Following the case studies, participants moved into small working groups designed to confront the core areas where reform is necessary, but hard questions about achieving real and meaningful change remain. These key areas included the following questions:

- *What does meaningful, effective, and humane order maintenance within correctional facilities look like without the use of isolation?*
- *How can correctional institutions respond to prison gangs and dangerous predatory individuals effectively and safely without the use of segregation/isolation housing?*
- *How can vulnerable individuals, such as the seriously mentally ill, pregnant women, and adolescents be protected adequately without the use of isolation?*

Developing a National Reform Roadmap. While the full group had different perspectives and agendas, the goal of the meeting was to establish specific areas of commonality to create a national roadmap for supporting the reduction in the use of long-term isolation. These points of common ground and consensus are outlined in the Recommendations section in Part III of this report.

Post-Colloquium Reporting. Progress towards realizing these principles will be self-reported by participants to Martin F. Horn, John Jay Coordinator, over the course of the next year. John Jay will report on the progress of these reform efforts and lessons learned.

Overarching Themes. This initial discussion raised several themes that would recur throughout the Colloquium, namely, definitional difficulty, goals for reform, and obstacles to reform.

- **Defining Solitary Confinement.** *One of the first challenges encountered was the lack of a uniform definition of solitary confinement. Administrative, disciplinary, and protective segregation are defined and treated differently across jurisdictions. Despite these distinctions, a common definition is key to reform, as failure to reach definitional consensus may lead to the continued misuse of extreme social isolation—albeit under a different name. The Colloquium largely settled on the Mandela Rules definition—22 hours of social isolation a day—as the base point for discussion, but was unable to reach consensus on an absolute limit to the duration of that confinement.⁷*
- **Setting Goals for Reform.** *The participants also discussed the goals of reform. One primary concern is curbing the negative effects of social isolation on the mental and physical well-being of incarcerated persons. Concurrently, the physical safety and mental health of the correctional staff is of paramount importance and must be a central focus for any reforms on the use of social isolation.*

One participant suggested that when we talk about “segregated confinement” we need to distinguish between two concepts: “Separation” versus “Deprivation.”

- **Separation** *is the need to keep an incarcerated person separated from some or all others because of danger. This would include, for example, isolation for infectious disease, restricted confinement to prevent harm to a suicidal patient, isolation of vulnerable persons from would-be aggressors, and the like.*
- **Deprivation** *is the restriction of meaningful perceptual, social, and occupational stimulation. Deprivation leaves the individual with an inadequate basis upon which to maintain a state of attention and alertness, thus resulting in solitary confinement syndrome marked by stupor and delirium, along with a multiplicity of other burdens, such as loneliness and free-floating anxiety.*

In practice, these two concepts are often not distinguished; an individual who needs to be separated is often exposed without cause to extensive deprivations. Moreover, imposing extensive deprivation, especially over long periods of time, creates problems and danger, rather than reducing them.

Participants frequently noted that social isolation is a form of intervention. Many people agreed that a shift from punitive, isolation-dependent models might well be displaced by positive reinforcement and incentive-based models. Such programs have shown promising outcomes, including decreased institutional violence and improved facility safety.⁸ There is no real penological justification to put an individual in segregation for an administrative (as opposed to punitive or investigative) purpose without attempting to enrich his environmental opportunities as much as possible using such mechanisms as conjoint recreation, education, religious worship, books, writing material, letters, phone calls, and visits. Even in the case of punitive confinement, corrections staff must consider whether the deprivations – especially when imposed for more than a short period of time – serve any purpose in keeping the prison safe or in preparing individuals for return to general population or release to the larger community after their prison sentence ends.⁹

• **Identifying Challenges to Reform.** Participants also identified numerous impediments to reform and discussed ways in which these barriers could be overcome:

- **Staff** can be resistant to decreasing the use of isolation for fear that prison safety might be compromised if incarcerated persons are placed in less restrictive housing. Prison administrators noted that correctional professionals could be won over by highlighting that, in many instances, reducing the use of social isolation is correlated with lower rates of violence.
- **Political support** for reform, though growing, must be expanded significantly.
- **The public** is frequently resistant to increased expenditures on prisons. People might be more willing to invest in prison reform if administrators and advocates emphasize that because over 90% of all incarcerated persons will eventually return to the community, prison policy directly affects public safety. The treatment prisoners experience while incarcerated will determine their abilities and behaviors after release.¹⁰ Advocates can be partners in communicating the financial and safety benefits of responsible segregation policy to the general public, relevant interest groups, correctional staff, and affected labor unions.
- **Resource constraints** are another significant barrier to change. Even where prison administrators are able to cut costs, state legislatures frequently will not allow correctional officials to reallocate those funds within the correctional system. Instead, legislatures may reclaim the newly freed funds, effectively reducing correctional budgets.¹¹
- Current prison **architectural infrastructure** can be an impediment to reform. Supermax prisons were not designed for any useful purpose beyond detention, and correctional administrators strain to re-purpose them usefully as institutions that facilitate social interaction.
- Lastly, participants noted that correctional facilities were never meant to be **mental health** care facilities. Yet the 20th century deinstitutionalization of the mentally ill has led too often to correctional re-institutionalization of these individuals.¹² Reform must address the abysmal shortcomings of the patchwork American mental health care system and the counter-therapeutic environment of prisons, neither of which addresses the root causes of these individuals' criminal behavior.

Part I

Case Study Presentations

A. Reduction of Segregation in Washington State

*Presented by **Bernie Warner**, Secretary of Corrections, State of Washington, followed by comments from **Jack Beck**, Director, Prison Visiting Project, Correctional Association of New York (presentation available at Appendix A)*

Bernie Warner, Secretary of Corrections for the State of Washington, described the ongoing evolution in the use of restrictive housing in the State of Washington as an effort to move from suppression and containment toward intensive programming, and from punishment to the development of management tools to address the challenge presented by prisoners who cannot be safely managed in the general population of a prison. He identified the most important change as the recognition that one size does not fit all. The agency needs different responses to different people and mission-specific housing to target risk and be responsive to the needs of the prisoner. As he described it, their goal is to change behavior through programming and congregate activity, rather than through the mere service of time in socially isolating situations.

Warner pointed out that since the implementation of their new approach, the number of use of force incidents in the Washington State Penitentiary Intensive Management Unit have decreased and, at the Clallam Bay Corrections Center, where the Intensive Transition Program targets chronic Intensive Management recidivists and includes mixed cognitive-behavioral therapy, they are experiencing an 80% success rate. They have accomplished this by providing staff with more tools, training in motivational interviewing, and by encouraging interaction between prisoners and staff.

Following Warner's presentation and comments from Jack Beck, Director of the Prison Visiting Project of the Correctional Association of New York, Colloquium participants made the following observations:

- *A common definition for isolation or solitary confinement is necessary so that practices can be compared and monitored, but is difficult to pin down given the variation in practices and terminology throughout the prison system;*
- *Uniform definitions are also needed for disciplinary, administrative, and long-term segregation, because without such standardization, some programs purporting to curtail isolation practices might continue severe isolation under euphemistic titles; Trauma suffered by corrections officers is weighty and must be addressed;*
- *Culture change among corrections officers is necessary to effect reforms, but might require significant changes to hiring practices given the reluctance of unions to embrace change where there is perceived risk to their members' safety;*
- *Informing corrections officers that new policies promote officer safety has been effective in reforming facility culture;*

- *Merit-based approaches to getting out of social isolation/segregation may not properly capture a given individual's level of fault;*
- *Additional research needs to be conducted on the impact of various isolation methods on mental health;*
- *There is danger in releasing individuals directly from segregation into the general prison population or the community; and*
- *One way to monitor practices is to enhance opportunities for additional transparency and access to prisons by outside groups.*

B. Reforms for Youth at Rikers Island in New York City

*Presented by **Joseph Ponte**, Commissioner of Correction, City of New York, followed by comments from **Ron Honberg**, Senior Policy Advisor, Advocacy & Public Policy, National Alliance on Mental Illness (presentation available at Appendix B)*

Joseph Ponte, Commissioner of Correction for the City of New York, described the 14-point program to reduce violence adopted by the New York City jails. New York City's agenda includes efforts to keep weapons and drugs out of the jails, create an integrated classification and housing strategy, design and implement effective inmate educational opportunities and services, and support culture change through expanded training throughout the agency.

As part of this effort, the City is implementing new leadership development training, revamping their internal investigations, improving their recruitment, hiring and staff selection plans, and putting in place a performance management plan that includes operational metrics and analysis. Additionally—and equally importantly—the City is working to improve facility maintenance so that all housing units are in a good state of repair and changing its custody management processes.

Following Ponte's presentation and comments from Ron Honberg, Senior Policy Advisor with the National Alliance on Mental Illness, participants raised the following points for exploration:

- *The importance of corrections officials expressing how the failures of the American mental health system has impacted corrections;*
- *Lack of commitment from elected officials to recognize the problem in the American mental health system and a lack of understanding as to how such reform can be institutionally vital to corrections;*
- *That the “deinstitutionalization [of the American mental health system] led to a different kind of institutionalization”;*
- *The importance of understanding different categories of responses to and impacts of isolation, including social, perceptual, and occupational; and*
- *Definitions of isolation are not “black and white.”*

C. Removal of the Seriously Mentally Ill from Administrative Segregation in Colorado

Presented by **Rick Raemisch**, Executive Director, Colorado Department of Corrections, followed by comments from **The Reverend Laura Markle Downton**, Director, U.S. Prisons Policy and Program, National Religious Campaign Against Torture (presentation available at Appendix C).

Rick Raemisch, Executive Director of the Colorado Department of Corrections, began his presentation by describing the events surrounding the assassination of Tom Clements, his predecessor at the Colorado DOC, who was murdered by Evan Ebel, a formerly incarcerated person who had spent considerable time in restrictive housing. Raemisch described his approach since taking office as telling staff to “just open the door.” The Colorado DOC policy is to establish and provide effective restrictive housing management procedures for offenders who have demonstrated through their behavior that they pose a significant risk to the safety and security of staff and other offenders, as well as to the safe and orderly operation of general population. The use of Restrictive Housing, to include Maximum Security Status, is an offender management process requiring specific action and review for placement and/or progression. The Colorado DOC has taken to heart the United Nations Mandela rule and believes “indefinite solitary confinement should be abolished,” and that by opening the door, you open opportunities. From housing 1484 prisoners in administrative segregation in May 2011, the Colorado DOC now has an entirely empty maximum-security prison.

Following Raemisch’s presentation and comments from Rev. Laura Markle Downton, Director of U.S. Prisons Policy and Program for the National Religious Campaign Against Torture, participants raised the following concerns and issues for discussion:

- *Prisons must respect an incarcerated person’s inherent dignity;*
- *Disparate racial outcomes in the use of social isolation must be addressed; Trauma suffered by corrections officers is weighty and must be addressed;*
- *Incentive structures are more effective in reforming problematic behavior, even among people with mental illness, and should be broadly implemented;*
- *Reforms and practice must recognize gender differences, as women very rarely need isolation and rarely respond positively to its use;*
- *It will be difficult to re-purpose supermax prisons for any other housing uses;*
- *Colorado’s quick turnaround in results is an example of what energized leadership can accomplish, suggesting that perhaps organizational culture is not as much of a barrier as is often discussed;*
- *Therapy dogs are an example of an effective intervention that can be used as an alternative to isolation; and*
- *More must be done to address mental illness in the prison population. Simply noting the trouble with America’s mental health system may serve merely to pass the buck.*

Part II

Work Group Discussions

Following the three case study presentations, participants were organized into three groups of ten for facilitated small group discussions. Each group focused on one aspect of social isolation:

- *Group 1: Reducing Reliance on Long-Term Segregation/Isolated Confinement as a Corrections Tool*
- *Group 2: Managing Prison Gangs and Dangerous, Predatory Individuals Effectively and Safely Without the Use of Isolated Confinement*
- *Group 3: Managing Vulnerable Individuals, Such as Individuals with Mental Illness, Youth, and Protective Custody Populations Without the Use of Isolated Confinement*

For each key area, the groups addressed the following three questions:

- *What strategies and programs can be used to ameliorate social isolation effectively where segregated housing is necessary for the safety and security of an individual/institution?*
- *What is necessary to effectuate reform?*
- *What are the barriers to reform and how can we overcome them?*

The small work groups were tasked with reaching consensus on as many specific reform recommendations as possible. The discussions of each are laid out in turn below.

A. Reducing Reliance on Long-Term Segregation/Isolated Confinement as a Corrections Tool (Group 1)

Group 1 tackled the key issue of reducing the overall segregation population while creating alternative tools and strategies for the management of correctional institutions without over-reliance on isolation. A central question for this group was: What strategies and tools allow correctional institutions to maintain order and hold prisoners accountable for their behaviors in meaningful, effective, and humane ways without excessive reliance on extreme social isolation?

Background and Context. Currently, segregation/isolated confinement is too often used as a one-size-fits-all approach to correctional management. It is used for multiple purposes: discipline for rules violations; “protective custody” for vulnerable prisoners; and housing for disruptive or dangerous prisoners. As corrections strategies, such placement of inmates can be unnecessary and even counterproductive for prison and public safety. Using isolated confinement as a default management tool has led to the over-use of this extreme form of housing, incurring unsupportable human and fiscal costs.

Recent research conducted by the Vera Institute of Justice indicates that isolated confinement is too often used to punish minor misbehavior rather than true threats to institutional security. In Illinois, for example, Vera’s data analysis 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.” Similarly, according to Vera, in Pennsylvania, 85% of prisoners found guilty of “failure to obey an order” were placed in isolated confinement, and this charge was the most common violation among prisoners in the isolation units.

Auditing the actual use of isolated confinement to ensure that the population housed there includes only individuals who are guilty of serious misconduct requiring separation is critical for all systems, as is creating alternative tools and practices that better serve safety, security, and rehabilitative purposes. But once isolated confinement populations are so limited, the question remains how to assist prisoners who are justifiably assigned there to expeditiously move out and stay out. Setting up programs that establish privilege levels within isolation units that give inmates clear guidance on the behavior necessary to move to the next level is one step. Ameliorating the conditions of extreme isolation on such units is another goal, including increasing access to group activities; fostering more staff-prisoner interaction; and creating more opportunities for both structured and unstructured out-of-cell time.

A number of correctional systems have implemented such programs. Research on their efficacy is still thin. Some have noted that these programs fail to account for the behavioral problems endemic in isolated confinement—often caused by the psychological stress that confinement induces or exacerbates—and, as a result, fail to create practical mechanisms for allowing inmates to work their way out of segregation. In particular, questions have been raised about programs and strategies that require perfect behavior or penalize minor misbehavior with months and months of additional time in segregation. Preventing long-term stays in isolated confinement both before and after placement must be an objective. But systems continue to grapple with defining what is sufficient compliance with rules to demonstrate that an inmate no longer needs to be placed in isolation housing for safety or security reasons and how to punish misbehavior without resort to isolation.

Questions for Discussion. Group 1’s conversation on these issues was guided by the following discussion questions:

- *What behaviors require the use of segregation?*
- *What are the criteria for using segregation?*
 - *For how long?*
 - *What procedures should apply?*
 - *What should be the standard for review?*
 - *Appeal*
 - *Length of stay/reduction in stay/step down*
 - *What should conditions be like for these prisoners?*
 - *Can we humanize conditions in ways that are safe and secure?*

Group 1 did not reach consensus on an acceptable duration for periods of isolation. About half of the participants agreed that disciplinary segregation must be for a determinate length of time and recommended that disciplinary segregation not exceed 15 days, unless extenuating circumstances otherwise dictate. Of those who disagreed with a hard 15-day upper limit, several participants preferred to use the 15-day mark to trigger a procedural review of whether to extend time in isolation, rather than as a hard upper limit. Other participants suggested that the 15-day limit might be used to trigger a different type of segregation with increased access to, for example, television or some type of congregate activity. Others felt that a year in isolation would be an acceptable limit for serious offenses, such as rape or seriously assaulting a staff member.

2. Viable Alternatives to Segregation. Group 1 discussed the use of alternatives to the default use of segregation, agreeing that punishment should be imposed on a continuum, with segregation used as a tool of last resort. Less serious punishments might include loss of commissary privileges or personal property. For more serious infractions or after other punishments have proved ineffective, corrections officials might impose loss of programming, social contact, and/or family contact. Group members agreed that the loss of privileges must be proportionate to the infraction and include a prosocial incentive system for their restoration.

3. The Role of Transparency. Both advocates and administrators were quick to acknowledge the importance of transparency in furthering reform. Transparency increases awareness and trust for the public, prison staff, and incarcerated people. Advocates tended to focus on the importance of granting faith-based, academic, civil rights, and rehabilitation organizations internal access to correctional facilities and data collection. Correctional administrators were particularly interested in internal feedback loops between prison administrators, the staff, and the incarcerated regarding behavior and punishment expectations. The group agreed that such communication between advocates and correctional administrators may avoid needless litigation, assure the responsible stewardship of funds, and help both correctional staff and the public at large to understand reform in public safety terms. In turn, transparency of statistics about the use of segregation and a public safety narrative could serve to educate all interested parties about the benefits of reducing long-term isolation.

4. Barriers to Reform. Group members most easily reached consensus on the multitude of problems both advocates and administrators face in effecting change. Participants agreed that efforts must be made to obtain staff “buy in” on reforms from the outset. Correctional management should find ways to celebrate courage in the service of public safety through small victories, so that when the inevitable tragic but isolated incident occurs, they can resist the impulse to abandon all reform. If staff is invested, change will be collaborative, rather than totalitarian. Absent such involvement, corrections staff will have less incentive to implement reforms, especially if they perceive risk to their personal safety and/or face opposition from unions, victims’ rights advocates, and other interest groups.

All Group 1 members were quick to agree that limited resources create a significant barrier to reform. Supermax prisons, for example, cannot easily be transformed into rehabilitative programming spaces. Legislatures have little political cover or incentive to lead reform efforts. In many jurisdictions, correctional staff is grossly underpaid and has little incentive to see themselves as part of the rehabilitative process rather than as “just guards.”

Participants acknowledged the importance of clear messaging and outreach to promote the public safety narrative as a means of fighting inertia. That narrative – that the use of isolation actually decreases the safety of the prison, inmates, guards and, ultimately, the community to which these prisoners return – must be communicated to correctional staff, who face considerable mental and emotional trauma in addition to physical danger, as well as to the media, general public, and immediate community around a prison. That message is that the “tough on crime” opposition to reform is ultimately “tough on the community.” A partnership between advocates and correctional administrators can play a vital part in fostering reform through a public safety narrative.

B. Managing Prison Gangs and Dangerous, Predatory Individuals Effectively and Safely Without the Use of Isolated Confinement (Group 2)

Group 2 tackled the serious policy and practice issues involved with managing the population of inmates who do present a legitimate security risk and require some form of segregation. Group 2 considered two central questions:

1. When inmates must be segregated because they are dangerous or disruptive, how can social isolation and environmental deprivation be ameliorated safely and what strategies can be used to return those prisoners to general population and the community?
2. Concurrently, how can correctional systems deal effectively with Security Threat Groups (STGs)/prison gangs without reliance on segregation or with limited segregation?

Background and Context. Once correctional facilities reduce their segregation populations to the individuals who need to be there for legitimate safety/security reasons, questions remain about the conditions under which those individuals are housed, as well as the impact of such housing on rehabilitation and ultimately a safe return to the community. Many systems are employing strategies to reduce social isolation for even the most disruptive of prisoners, such as providing access to television, radio, books, MP3 players, and in-cell programming. Increasing social interaction through one-on-one and group programming has also met with success. Allowing increased access to outdoor exercise and recreation, as well as increasing dayroom time and other privileges such as visitation and phone calls, are other areas where systems can enhance social interaction and environmental stimulation to lower the psychological stress of isolated confinement.

Ensuring that conditions in segregation do not damage the physical and mental health of prisoners is central to efforts to make such units more humane and effective. In response, some systems are putting in place policies and practices that rigorously monitor health conditions for prisoners in segregation housing. This is achieved by mandating more frequent and in-depth rounds by health staff; facilitating better communication and coordination between health care and custody staff; allowing prisoners confidential opportunities to seek treatment; and facilitating staff opportunities to observe and talk with prisoners and incorporate such observations into case work and unit management strategies.

Another notable challenge for ameliorating isolation conditions is finding ways to surmount the architectural barriers of some institutions to create more socially stimulating environments while maintaining safe and secure units. A key constraint/challenge for implementing reform and improving outcomes in these units is ensuring that corrections staff have the tools and skills necessary to deal with difficult and potentially dangerous populations without defaulting to the extreme measure of social isolation and lockdown.

Beyond ameliorating the worst features of isolated confinement in corrections, a key challenge remains in the management of prison gangs. Some have pointed to problems of overuse, confining persons not deeply involved in gang culture, in relying on isolation and containment strategies, while others have noted the failure of such strategies to either abate or prevent prison gang activity in most systems. Fresh approaches based on community models may hold out some promise for building alternatives to the segregation model of gang management, but further research and investigation is necessary to build more effective programs and strategies in this critical area.

Questions for Discussion. Group 2's conversation on these issues was guided by the following questions and topics:

- *What behaviors require the use of segregation?*
 - *Are different responses required for prison gangs than for dangerous predatory prisoners? If so, what are the differences?*
 - *For how long?*
 - *What procedures should apply?*
 - *What should be the standard for review?*
 - *Appeal*
 - *Length of stay/reduction in stay/step down*
 - *What is an effective approach to gang de-briefing/renouncing that would allow inmates previously involved in serious gang activity to move safely back to a general population setting?*
 - *What resources would be needed to make these penalties/incentives effective?*
 - *What oversight and controls are necessary to ensure the limited use of segregation?*
- *What should conditions be like for these prisoners?*
 - *Can we humanize these environments in ways that are safe and secure?*
 - *What resources would be needed to provide the process and conditions recommended?*
 - *What programs/policies are necessary to return these prisoners either to general population or the community in a safe manner?*
- *What alternatives to segregation and isolated confinement can be used to deal with prison gang problems in prisons and jails?*
 - *Are there community models that can be transferred to the correctional setting?*
 - *What does effective gang prevention, as opposed to using a containment model, look like in a correctional setting?*
- *Does staff working in these areas need special skills? What are they?*
- *Are there structural changes needed such as staffing patterns and architecture?*
- *What type of internal and external oversight is necessary to ensure that reforms are successful and lasting?*
- *What is the role of transparency and accountability in ensuring the success of these units?*
- *What are the barriers to achieving these reforms?*
- *How can we overcome them?*
- *How can we ensure and document continued operationalization of these reforms?*

Conversations and Areas of Consensus. Group 2's early conversation demonstrated the range of perspectives on its major themes of discussion, such as who should be put in segregation, for what reasons, under what rules, and with what level of transparency. Group members reached significant agreement on some questions, particularly the categories of people and/or behaviors that should or should not be eligible for segregation, but experienced a divergence of opinion on others, notably as to the appropriate conditions of confinement.

The scope of the questions sparked one participant to begin the conversation with a fundamental baseline inquiry: Is segregation ever necessary? There was a clear division here. Some participants argued that because there is no evidence that segregation deters either the individual or the general population, it does not achieve its intended results in terms of

behavior change, deterrence, or safety and, therefore, should not be used except for logistical reasons, such as during an investigation. Additionally, several participants said that there is little evidence – research or anecdotal – about what interventions or practices work to change behavior during periods of segregation. Other participants suggested that segregation is an appropriate punishment for egregious transgressions and/or to manage individuals who are seriously dangerous.

Group members did agree that segregation often makes people worse and that reducing the use of segregation creates a safer institution. Further, everyone agreed that since segregation is widely used and can cause harm, it is important to develop rules and guidelines to reduce its use and its harshness as much as possible. Thus, even though some group members preferred to work toward the elimination of segregation entirely as a longer term goal, the group agreed to discuss the various dimensions of segregation in detail, since the most realistic intermediate goal is to reduce its use. The group therefore reached consensus that the prison system's goal should be to get those in segregation out of segregation – or to less restrictive housing – as soon as possible.

Based on this discussion, Group 2 reached consensus on numerous points that were then converted into recommendations. On a few topics, members held strongly divided views and agreement was not reached. The group did not address every topic on its list before time ran out, and so, for a few areas, recommended further discussion. The areas of consensus, compromise, disagreement, and points for additional exploration are outlined below.

1. Behaviors as the Criteria for Segregation. Group 2 first addressed the criteria for employing segregation, agreeing that it should be used for behaviors only, and not for other “status” reasons, such as a person's gang affiliation. The group then moved to the question of which behaviors do merit segregation, reaching consensus only on including the most serious violent behaviors: murder, rape, or assault. After some discussion, participants agreed that “threats of violence” – such as one individual ordering another to commit violence – should also be included in this category.

As for behaviors that should not result in segregation, everyone agreed that it is not appropriate for minor rule infractions. There was less clarity, however, as to what behavior constitutes a “major” versus “minor” infraction, as well as whether segregation is an appropriate response to a major infraction. Some participants argued that major “disturbances” – such as participating in a riot, attempting escape, or trafficking drugs inside prison (not simply possession) – justify segregation, while others argued that these actions merit a disciplinary response, but not necessarily segregation, since the individual does not pose a risk of harm to others.

Members also disagreed as to what constitutes “assault” on a staff member. Most participants agreed that prison staff can abuse their discretion and label a minor slight – such as profanity or spitting toward staff – an “assault,” and that segregation is not an appropriate response to such incidents. However, no agreement was reached on the level of serious violence that constitutes the type of assault that would merit segregation. Moreover, some participants noted that prison officials used harsher discipline – including segregation – for lesser levels of violence toward a staff member, while an equivalent level of violence against another person would not result in segregation. Responding to this assertion, other participants contended that an assault against a staff member implies a level of “disturbance” to the prison environment and is thus legitimately considered more serious by corrections staff.

Ultimately, the group did not reach consensus on defining a “serious” assault or distinguishing assaults on staff from assaults against another incarcerated person. Nor did the group agree on how to determine whether a seemingly “minor” altercation or fight could count as a “major” infraction if the staff had reason to believe it would escalate.

2. Defining Types of Segregation. A few of the participants held the view that segregation is almost never justifiable, except in a very few cases of extremely violent or predatory individuals – what was colloquially termed “the Hannibal Lecters.”¹³ Those who favored the most extreme limits on the use of segregation did, however, support talking about a spectrum of “types” of segregation, since it remains a widely used tactic, with the goal of using the harshest type the least often. All participants agreed that this “spectrum” is a useful concept to reflect the different rationales for segregation, such as punitive versus risk-management.

Since this group was addressing segregation only for predatory or dangerous individuals (i.e., not for protection from others), the participants agreed to consider the types of segregation in this framework:

- *Short-term for investigative purposes;*
- *Short-term for disciplinary reasons;*
- *Short-term for “cooling-off” reasons; and*
- *Longer-term for reasons of risk of violence or harm.*

The group agreed that more austere conditions are acceptable for short-term segregation, but not for longer-term segregation, although there was rigorous debate as to the length of time that should delimit “short-term” segregation, as well as about acceptable minimum conditions of such isolation.

Group 2 generally agreed that too many people are placed in the “longer-term” segregation category than should be. One participant offered the example of prison systems that put condemned persons in long-term segregation because of the conventional view that they are risky due to their “I have nothing to lose” position. Yet, according to this participant, when condemned persons were housed in non-restricted housing, they did not exhibit more violent or risky behavior and, in fact, showed improvements in mental health and social interactions.

a. Conditions for Short-Term Segregation.

The group agreed that setting a specific number of hours of cell confinement per day as a minimum standard was not as important as defining the minimum standards for various conditions of segregation: physical space, food, services, staff interaction, allowable activities, interaction with other people, programming, etc. After some debate, the group reached agreement on a specific phrasing for these basic conditions – which is set out in the recommendations in Part III, below.

The group agreed that in order for short-term segregation to serve a punitive purpose, more restrictions and more austere conditions are necessary than exist in the general population or any separated population. These minimum conditions are meant to represent the floor for what constitutes humane confinement. Some participants mentioned examples of privileges that should not be offered in short-term segregation, including additional recreation, TV, phone calls, and contact visits. Participants explained that in order to create positive incentives, prison officials would need to have the ability to offer privileges that could be earned. Thus, prison officials cannot offer all the privileges as a minimum standard. Other members agreed with this premise, but maintained that this should not mean that persons in segregation are not allowed any of these privileges.

b. Conditions for Longer-Term Segregation.

The group then considered appropriate conditions for longer-term segregation. They agreed that only people who pose more serious or ongoing risks of violence to others should be in longer-term segregation and that professional clinicians should determine this risk through regular inter-disciplinary assessments. The group also agreed that corrections staff should make a clear decision to transfer a person from short-term to longer-term segregation, documenting the reasons, rather than simply shifting them automatically after a certain period of time.

Some participants argued that the risk of harm posed by longer-term segregation is only justifiable if the facility provides interventions or programs that attempt to address the underlying cause of the risk of violence – that is, if there is an effort to give the individual a path out of the longer-term segregation by changing his or her behavior. The other participants agreed with this view in principle, but expressed concerns about resource requirements for such programs. The group agreed that, in theory, this approach could also involve a graduated program, in which behavior improvements could lead to more time out of the cell. Group members acknowledged that such interventions would not necessarily work for everyone whose behavior merits longer-term segregation, but that it is important to offer such opportunities. All the participants agreed that these interventions should address the behavior we seek to change, and not merely be recreational in nature.

Group 2 frequently mentioned having a minimum standard of 20 hours per week of programming activities for those in longer-term segregation.¹⁴ A few participants noted that some of this programming could occur with some level of restraint, if necessary, rather than denying it completely to those needing restraint.

The group then discussed the sometimes-used “levels system,” in which prisoners can earn stepped up privileges through good behavior. Meant to be a path out of segregation, some participants expressed concern that such systems act as a trap for people who have underlying behavioral or mental health problems. Members also generally agreed that the term “step down” could be unhelpful. There was no explicit agreement, however, on whether to recommend eliminating levels systems.

Several participants stressed that the conditions in longer-term segregation needed to be more restrictive than the conditions in the general population, expressing concern that individuals might attempt to get into longer-term segregation on purpose, viewing it as a means to a private cell with nearly equal access to services and privileges. Group members therefore agreed to add the caveat that conditions in longer-term segregation should typically be more restrictive than in general population.

3. Maximum Length of Time for Short-Term/Punitive Segregation. The group agreed that the current length of time used for disciplinary segregation is too long – many years, in some cases – and that those in segregation for “risk” reasons tend to be re-assessed too infrequently.

The group discussed the notion of a 15-day limit on short-term segregation under the most austere of conditions for disciplinary or cooling-off reasons. The 15-day limit provides a clear reference point because it is defined as “prolonged solitary confinement” in the Mandela Rules¹⁵ and recommended by the UN Rapporteur. All conceded, however, that this is a relatively arbitrary number without a clear rationale from social science. Some members strenuously argued that the maximum amount of time allowed in the harshest of segregation should be less than 15 days. Views on an appropriate maximum length of time for the harshest segregation ranged dramatically – from one day to more than a year.

Some members repeatedly said that imposing an absolute 15-day limit on short-term segregation would be “too much, too fast” for some prison officials, and that having such a number risks causing a backlash. Given this and the fact that other members would not accept a higher number of days, no consensus on a maximum time limit was reached. Ultimately, the group agreed to recommend the “briefest possible period” – a phrase that conveys the urgency of a short time without prescribing a number of days.

The group also considered the issue of “suspending” the crediting of time toward the confinement period when a person misbehaves. Some participants argued that this tactic is not effective as a deterrent and can make a person more angry and violent. Although no explicit recommendation on this issue emerged, the group agreed that “time suspended” is not a helpful or effective practice.

4. Alternatives to Segregation. The group easily agreed to recommend that alternatives to segregation should be used more widely and that segregation should be used as a last resort. One primary alternative to segregation is separation, which can be used, for example, to separately house gang members who are predatory only towards specific individuals with others to whom they do not pose a risk, and with access to a communal space, programs, etc. The main obstacle to this alternative is architectural: many facilities do not have the structure or space for this type of physical separation. Some participants also pointed out that classification systems attempt to accomplish such separation to some extent, but that prison staff and buildings often do not have the resources to build a separation system with enough levels and categories.

Group members suggested other types of separation, including transferring individuals from segregation to the general population of another facility or another state system. Participants noted that in many cases the individual’s behavior problems were contextual and thus stopped after the transfer. Members agreed that such transfers should be promoted as another version of separation, providing a further alternative to segregation.

5. Due Process. The group briefly discussed issues of due process in the hearings on incidents of misconduct and disciplinary decisions leading to segregation. Several participants commented that because the administrative systems are overloaded with cases, hearings are often delayed for weeks or months, and sometimes officials do not have time to consider each case in sufficient detail. Participants underlined the dilemma that incarcerated persons face: If they accept a short disciplinary segregation “sentence” without a full hearing, they de facto incriminate themselves. However, if they insist on a hearing, they can be in segregation for several months, waiting for that process to take place. Some members suggested that the hearings are not fair because most of the accused are found guilty. A few people suggested that individuals are pleading guilty – regardless of actual guilt – simply to reduce their time in segregation. Overall, there were many concerns about due process, but all agreed that additional external oversight or interventions might not solve the problem. Due to a lack of time, the group did not reach a consensus or recommendation on this topic, and therefore listed it as requiring further discussion in the future.

6. Transparency and Accountability. The group agreed that there is a clear need to collect and analyze more data related to segregation practices. Some participants noted, however, that states have different capacities for in-house data analysis. Therefore, the group agreed to allow for flexibility in how and by whom data is collected and analyzed, whether via the agency itself or through partnerships with universities. Many participants pushed for more detail as to the type of data that should be made available pertaining specifically to segregation. The group agreed to recommend that agencies should collect and make data available on a specific set of issues related to segregation.

7. Staff Buy-In. In the initial exercise, several participants listed lack of staff buy-in as an obstacle to change. During the discussion, administrators argued that even if everyone agrees on the end goal in terms of how to reduce the use of segregation, the implementation should be gradual, as staff is often resistant to change. Members suggested that changes in recruiting and hiring of staff – for example, selecting people for their social work skills and orientation – could shift the level of buy-in. A few participants commented several times that even the best-designed policies require consistent understanding and implementation by staff and that, in some facilities, high staff turnover is more of an obstacle than is staff resistance to change. The group did not agree to make a concrete recommendation on this topic, although this resulted more because there was not a clear suggestion made, rather than because of any explicit disagreement.

8. Strategies for Change. Group 2 then identified a variety of strategies to change segregation practices. All participants agreed that sustainable change to segregation policies requires some change in legislation. They also agreed that there should be a concerted effort to focus on this arena.

The group also discussed strategies related to resources. Everyone recognized that reducing the number of people in segregation and the length of segregation may save money, but some members noted that, typically, state governments reabsorb any savings resulting from changes in prison expenditures, rather than reinvesting them in other prison services or expanding buildings or staff. Thus, removing people from isolation may require new resources and incur new costs. The group thus agreed that advocating for the reduced use of segregation on a cost-savings rationale alone is unhelpful, as it contradicts the equally important need for additional resources for more restorative services. Several participants noted that the problem of the over-use of segregation is in some ways self-generated by the under-resourcing of prisons: When incarcerated persons are under pressures due to overcrowding and lack of services, they are more likely to lash out, which leads to discipline and the over-use of segregation, which in turn drains resources away from better conditions and services for the general population.

With regard to how to “sell” changes in segregation policies to the public and to politicians, some members cautioned against advocating that reducing segregation results in reduced recidivism within prison. Given punitive public attitudes, they suggested that the only argument that resonates with the public is that reducing segregation has clear public safety outcomes.

Finally, the group debated the tradeoffs between prescriptive recommendations versus general guidance. Some members suggested that when guidance is too directive, prison officials might balk. Instead, they suggested that general guidance backed up by examples of successful outcomes of new initiatives or changes in policy would be more persuasive.

All participants agreed that this meeting was a unique and crucial opportunity for generating real change – and that if this change process is not done quickly and well, the window for reform will vanish.

Group members frequently noted during the discussion that the key points or conclusions would only apply to prisons and not jails, particularly on topics of clear differentiations of physical space and programs for different categories of individuals, given that there is less space, fewer resources, and more flux in jails, and that different types of infractions and incentives are common in jails versus prisons. The group recommended that separate discussions be held on the topic of the over-use of segregation with specific reference to jails and also, separately, on the use of segregation in the juvenile justice system.

C. Managing Vulnerable Individuals, Such as Individuals with Mental Illness, Youth, and Protective Custody Populations without the Use of Solitary Confinement (Group 3)

Group 3 was charged with discussing the key policy and practice issues involved with managing vulnerable populations without the use of isolated confinement. Central questions for this group to address included how to identify vulnerable groups and, once identified, what alternative programs to isolated confinement should be provided for these individuals with regard to their particular vulnerabilities, such as mental illness. Equally important questions were how to prevent such programs from devolving into isolation units, and how to deal with vulnerable populations that present legitimate safety and security risks to the facility.

Background and Context. Currently, segregation/isolated confinement is too often used as a one-size-fits-all approach to correctional management. It is used for multiple purposes: discipline for rules violations; “protective custody” for vulnerable prisoners; and housing for disruptive or dangerous prisoners. As corrections strategies, such placement of inmates can be unnecessary and even counterproductive for prison and public safety. Using isolated confinement as a default management tool has led to the over-use of this extreme form of housing, incurring unsupportable human and fiscal costs.

Many correctional facilities do nothing to distinguish between populations in segregation for protective versus punitive reasons. As a result, vulnerable prisoners are subject to extremely onerous conditions and denied access to the types of jobs and programming they will need to successfully return to the community. Due to such harsh conditions, vulnerable prisoners can also be discouraged from seeking the protection they need or even reporting legitimate risks. When isolated confinement is the only choice offered a vulnerable prisoner, that prisoner is confronted with a Hobson’s choice: Opt for protection but pay the price of isolation or avoid isolation and risk injury or even death. This choice often means that the facility has undermined its access to the information it needs to operate in a safe and secure manner.

Alternatives to the one-size-fits-all use of segregation are needed. Some jurisdictions have already implemented special units for vulnerable prisoners with custodial conditions similar to general population. These are sometimes called “safekeeping” or “special needs yards.” This is a good start, but is not enough. We need clear principles and practices across corrections to ensure that we deal humanely and effectively with vulnerable prisoners without resorting to isolation settings.

At the outset, we need clear definitions of categories of persons who qualify as vulnerable if held in the general prison population. For corrections facilities everywhere, the vulnerable group that presents the greatest challenges is often those with mental illness. This cohort is a large and ever-growing part of the corrections population. Decades of experience demonstrate that prisoners with mental illness often adapt very poorly to life in prison. They frequently experience social difficulties with other prisoners and staff; they are often vulnerable to attack by other prisoners; and they typically violate rules both large and small due to an inability to conform to the strict constraints of incarcerated life. For all of these reasons, prisoners with mental illness are disproportionately represented in isolated confinement settings.

But decades of research have demonstrated that individuals with mental illness are uniquely vulnerable to isolation and solitary confinement settings. Many deteriorate dramatically and engage in bizarre and extreme acts of self-injury and suicide. As a result, nearly every federal court to consider the question has ruled that placing individuals with serious mental illness in such conditions violates the Eighth Amendment prohibition against cruel and unusual punishment. In systems where lawsuits have been brought on behalf of the seriously mentally ill in isolation housing, new policies and programs have been implemented. Promising practices for

this population are now emerging and enhanced staff training and collaboration with health care professionals have led to better run, more humane, and safer units for those with mental illness. Yet many systems still house significant populations of seriously mentally ill people in extreme isolation settings.

More recently, reforms have extended to other vulnerable populations, such as youth, pregnant women, and individuals with cognitive impairments and other disabilities. Other groups, such as inmates involved in notorious cases and transgendered inmates, may also be vulnerable. But the programs that have been established in a few locales have yet to become widespread in practice across the country.

A key concern in this area of reform has been the tendency for systems to revert back to the use of isolation once court cases end or public scrutiny relents. Some critics have noted that the exclusion of “special populations” from traditional segregation units has often resulted in a mere relabeling of the units or the prisoners housed there. For example, concerns have been raised that where systems have implemented policies to exclude seriously mentally ill individuals from isolated confinement, there has been a notable trend in re-diagnosing prisoners with long-time mental health diagnoses to lower acuity illnesses so they no longer qualify for alternative housing. In other systems, alternative mental health units—although not labeled as isolation—often look, smell, and feel just like a solitary confinement unit, albeit with a less harsh sounding name.

Another key concern is ensuring that custody and health staff has the skills necessary to deal with difficult populations, such as individuals with mental illness who present serious security concerns. The success of alternatives to segregation is dependent on the ability of staff to do the job intended. Often, this will involve providing substantial, additional training. Line staff is key to the success of new programming and modes of operation that do not rely upon isolation. Just as critical are the significant cultural shifts often necessary within the institutions, including management, line staff, health staff, and the prisoners themselves. Fostering, supporting, and solidifying such culture change is an ongoing challenge for institutions and one that may benefit from outside scrutiny, monitoring, and technical assistance from researchers, advocates, experts, political leaders, and the public.

Questions for Discussion. Group 3 faced the challenge to find consensus on proposals as to how best to reform this system and implement change. To guide its discussions, Group 3 considered the following questions:

- *What groups require special protections?*
 - *Mentally ill? Does the particular diagnosis of mental illness matter in formulating policy?*
 - *Cognitively impaired?*
 - *Informants, former law enforcement, or public officials?*
 - *LGBTQ?*
 - *Other groups? What types are vulnerable?*

- *What procedures should apply to determine the level of protection necessary? For protective custody? For special population housing?*
 - *What does effective screening and classification look like?*
 - *Are there inherent conflicts between medical and mental health care staff and custodial decisions?*
 - *How can those conflicts be resolved?*

- *What procedures should allow appeal by the prisoner of placement or denial in special population units and protective custody?*
 - *How and when should determinations about step down and return to population be made?*

- *Are special population units appropriate? Useful? Counterproductive? In what contexts?*
 - *What tensions does the use of specialty units create in a system? A facility? How can these tensions be avoided or managed?*
 - *What measures must be taken to ensure that special population units maintain their original mission? Do not devolve into isolation housing?*
- *What should the conditions of confinement be like in units for vulnerable individuals?*
 - *What services/programming should be made available?*
 - *What new or specific skills does custodial staff need to work in these settings?*
- *What resources would be needed to make these approaches effective?*
- *What is the role of transparency and accountability in ensuring the success of these units?*
- *What are the barriers to achieving these reforms?*
- *How can we overcome them?*
- *How can we ensure and document continued operationalization of these reforms?*

Conversations and Areas of Consensus. Participants initially disagreed on how to interpret the questions posed by conference organizers. One participant raised a concern about whether to start the discussion by identifying individuals who need protection or those who need services, noting that inadequately treated individuals could potentially be vulnerable and, if those individuals were treated adequately, they would not need protection.

Some members interpreted the questions as asking “Who is vulnerable and who should be placed in a special environment?” Others thought they were being asked “Which categories of individuals should we worry about when removing them from the general population and placing them in a separate unit?”

Given the multiple interpretations of the questions Group 3 was asked to address, the facilitator suggested that there are two conversations to have:

- Whether, if individuals are treated with services and programs, they would still need to be isolated; and
- If those individuals do need to be isolated what conditions of confinement and services should they receive?

The group’s conversations and the areas of consensus it reached on these issues are set out below. The group defined vulnerable populations, discussed methods of separating vulnerable individuals from the general population without resorting to isolation, considered when and under what conditions extreme isolation might be used for vulnerable persons and, more generally, considered issues of accountability, transparency, and barriers to reform.

1. Defining the Scope: Who are the Vulnerable Populations? The group contemplated two different vulnerabilities to approach its discussion. The first vulnerability occurs when an individual is vulnerable to the harm associated with isolation. The second vulnerability arises when an individual is vulnerable to other prisoners. When someone in the first category is placed in isolation, the goal should be to work on getting him or her out as soon as possible. When an individual from the second category is placed in isolation based on their status, the system should instead work to find alternative responses to address these vulnerabilities.

a. Individuals Who are Vulnerable in the General Population.

Group 3 reached an agreement on the following categories of individuals who are **potentially** vulnerable in the general population:

- Serious Mental Illness “SMI”¹⁶
- People with Intellectual Disabilities
- Juveniles
- Old/Elderly
- Infirm
- New Admissions
- LGBT¹⁷
- Protective Custody
- Pregnant
- Chronically Ill
- Sex Offenders

After discussion, group members reached consensus quickly on populations that are vulnerable in general population. This category was defined as including the following people:

- Serious Mental Illness
- Intellectual Disabilities/Developmental Disabilities
- Juveniles (18 and under/defined by state law)
- Elderly/Infirm (without a specific age)
- Protective Custody
- Chronically Ill
- Sex Offenders

Group members cautioned, however, that corrections officials should not be forced to place these individuals in segregation in order to protect them, but rather that these individuals should be provided opportunities to find ways to live safely within general population.

b. Individuals Who are Vulnerable to the Harms of Segregation.

The above categories relate to those who are vulnerable – either from threat of harm to themselves or others – within the general population. In discussing categories of potentially vulnerable individuals, Group 3 next considered individuals who, if placed in segregation, could become dangerous to themselves and/or who are especially vulnerable to the conditions of isolation.

Participants first addressed the elderly and infirm. The group agreed that the elderly and infirm should be included under the vulnerable to isolated confinement list, but did not specify age ranges. They did not reach consensus as to whether LGBT individuals, those in protective custody, the chronically ill, or sex offenders should be included in this particular list.

The group then considered issues related to pregnant women in isolated confinement. It was argued that women are not provided with the healthcare, exercise, and nutrition necessary to keep their gestating babies healthy while they are in isolation. Some group members pushed back against this notion, contending that women in prison might receive better healthcare than they would otherwise, depending on their circumstances. One corrections official shared a story of a pregnant woman who was jumping and diving off of her prison bed in order to abort her baby, noting that because the state has a moral obligation to protect an unborn child from such attempts to harm it, the woman was placed in isolated confinement to protect her life and the life of her unborn child. Participants acknowledged that if someone is harming herself or others – as in this scenario – then the prison needs to protect her, but she should not be placed in 22-hour isolated confinement for more than 30 days.

Following this discussion, the group reached consensus that pregnant women are a population that is especially vulnerable to the harms of isolated confinement. In sum, it was agreed that the following persons are significantly vulnerable to the effects of isolation:

- Serious Mental Illness
- Intellectual Disabilities
- Serious Cognitive Limitations/Impairments
- Juveniles (18 and under/defined by state law)
- Elderly/Infirm (without a specific age)
- Pregnant Women

2. Housing Vulnerable Persons: Should Vulnerable Individuals Be Held in Separate Groups or Can They Live in the General Prison Population and, If So, Under What Conditions?

a. Separate Housing for Vulnerable Populations.

Group 3 addressed how vulnerable individuals should be housed within prison populations and whether, based on their vulnerable status alone, such individuals should be housed separately. Participants suggested that, as a default, all incarcerated persons should be housed in general population irrespective of their classification. Some suggested that corrections officials could create separate units that place vulnerable individuals with others of like status; while others expressed concern that this would merely create a facility segregated by categories, with perhaps some stigmatizing effects.

Several participants agreed that isolation is not a solution to the problem of vulnerable populations and should not be used as a means to protect people: Individuals should not be placed in segregation based solely on their status in a vulnerable category, but rather because their behavior merits it. Instead, such individuals should receive programming to address their unique needs. Ultimately, the question becomes: How do we create living units for vulnerable individuals separate from the general population, yet not isolated or of lesser quality?

One participant suggested that the analysis be as follows:

- 1 What is the person's status? Based on status alone, a person should not be placed in isolation.
- 2 What special needs does this individual have and how can corrections officials address them?
- 3 If the individual has a vulnerable status and also has behavioral issues, how do corrections officials respond? If an individual is mentally ill, for example, can therapeutic programs travel with that person if his or her behavior merits a segregated environment?
- 4 How can corrections officials handle people who cannot safely be housed in the general population because of their status?
- 5 What resources do prisons need to create separate housing for vulnerable persons?

b. The Need for Services and Programs for Vulnerable Populations

The group agreed that vulnerable individuals might require services and programs to help keep them safe and/or address their special needs, but that services available in the general population are often insufficient to accomplish this. Units with vulnerable populations thus need additional services and socialization directed towards a goal. Moreover, progress should not be based on a behavior plan, negative reinforcement, or a punishment-based system, methods that often prove impossible for some vulnerable individuals to meet, such as those with mental disabilities. Rather, a positive incentive-based program should be used.

The group also discussed the conditions of separation for vulnerable populations. It was suggested that for those individuals who are separated, but not in isolation, separation should not work to deprive them of habilitative, rehabilitative, educational, or similar opportunities.

A participant suggested that vulnerable populations should have as close to the same level of amenities as in the general population, in a setting as similar to the general population as possible, while still being afforded the rights and privileges an individual would otherwise have in the general population. It was even suggested that these populations should receive more amenities than the general population.

Others were concerned that this would result in some individuals seeking to be placed in these separate units in order to be housed in a quiet, single cell while still receiving all the same amenities as the general population. They expressed a need for caution in extending social interactions and services beyond what is offered in general population because, if prison life becomes better in these separate units, individuals may seek placement there in order to obtain these additional privileges.

The question was then posed: "How do you meet the needs of individuals who are in a vulnerable population who want to participate in programs that are only available to the general population, such as congregating religious activities or school?" The following solutions were suggested:

- 1 Use escorts to take the individuals to the services or programs;
- 2 Allow the individuals to interact with other incarcerated people they trust and are in the same status; and
- 3 Allow the individuals out-of-cell time with staff and outside personnel who come to fill that individual's day with art conversation, passive recreation, etc.

Group members agreed that the mere fact an individual is in a vulnerable population should not deprive them of the same services that are provided to the general population.

3. Discipline and Isolation for Vulnerable Persons: When, if Ever, Can Isolation Be Imposed on Vulnerable Individuals, and Under What Conditions? Having defined vulnerable categories of individuals in prison and discussed the preference for separation versus isolation to keep such people, other prisoners, and corrections staff safe, the group moved to considering whether isolation would ever be appropriate for vulnerable individuals. In this discussion, they defined and debated the use of extreme social isolation, focusing on a timeline for initial assessment, its duration and conditions, and step-down procedures.

a. When, if Ever, May Extreme Social Isolation (22 Hour per Day Lockdown) be Imposed on Vulnerable Individuals?

In discussing extreme social isolation, the group considered the question: "To what extent should people in vulnerable categories be held in cells for 22 hours a day because of their status?" The group quickly reached consensus that no one in a vulnerable category should be held in their cell for 22 hours a day solely because of their status, characteristics, or vulnerabilities.

In reaching this consensus, the group discussed the various risks posed by, and the resources available to prison officials to deal with, vulnerable populations. A correctional administrator commented that until he can assess and stabilize an individual who has slashed someone, he knows that the individual is going to present a risk and he struggles with how to allow this person contact with general population while still protecting others.

An advocate conceded that the current practice is to put these individuals in isolation, but encouraged development of a more flexible system that acknowledges that prolonged confinement is not the answer. The advocate stressed that the risk to the individual needs to be balanced with the risk to others and that even in violent situations, these individuals should not be placed in isolation. An administrator suggested that ignoring the behavior of a vulnerable person who assaults another prisoner is not a realistic option.

The group came back several times to the needs of the seriously mentally ill in isolation – both the behaviors that might cause such a person to be placed in isolation and the special treatment needs they might have in that environment. Participants noted that the services available in prison do not compare to the services of a psychiatric hospital, and that correctional resources might be limited during the time an individual is in isolation. Most prison systems do not have enough psychiatric beds and sometimes there are worse conditions of confinement in psychiatric cells than in isolation. Participants suggested that while in isolation, there should be daily mental health services that involve contact with mental health staff, interaction, programs, treatment, and out-of-cell time. Participants also posited that mentally ill individuals in isolation should receive an immediate evaluation and treatment.

All agreed that the best result is to treat such individuals so that their behavior does not merit isolation in the first place, recognizing, however, that SMI will occasionally run afoul of prison rules and require discipline. The group discussed how best to respond to rule violations by the SMI. When an individual with SMI also has a behavioral issue, that person may need to be separated to keep everyone safe, but that separation should not diminish the level of services that person is provided. Group 3 did not contemplate isolation as being used in any way to punish a vulnerable person.

The group considered the method used in Colorado where, if an individual with SMI commits an act caused by their mental illness, an intervention to address the underlying mental illness is provided instead of punishment. In Colorado, even for discipline, corrections officials use a 10/10 plan¹⁸ and some individuals stay in 10/10 forever. This system does, however, raise the question of determining whether a person's underlying mental illness caused a particular behavior. Participants agreed that this system does not mean that staff can never discipline someone with a mental illness. Rather, SMI as a vulnerable population can be held accountable without the use of social isolation.

b. Is there a Limit to the Number of Days a Vulnerable Person Can Be Placed in Isolation?

Having determined that isolation may sometimes be necessary for individuals in vulnerable populations, the group turned to the duration of such confinement. The group agreed that placing a vulnerable individual in 22-hour a day lockdown for an indefinite period is not the answer. Rather, there should be an initial period of isolation to calm and address the threat. Thereafter, these individuals should be transferred to another unit that will address their needs. Another advocate countered that an individual should be placed in isolation only when all other alternatives to de-escalation of the immediate dangerous situation fail. The restraint needs to end when the emergency ends. There need to be time limits that govern when the individual could be released and these should relate to when the individual is no longer dangerous to themselves or others.

As to a specific time limit on isolation, the group considered whether 15 days was workable for vulnerable people to be held in 22-hour lockdown. One administrator argued that 15 days is not workable, but that 30 days might represent an acceptable upper limit and that 45 days would be excessive. Another commented that any system should allow for flexibility. The group next debated what the alternative to isolation should be, acknowledging that a higher standard or threshold should exist to put vulnerable individuals in isolated confinement in the first place. Most participants suggested 10/10, which averages to about three hours out of cell per day.

Group 3 considered a recommendation that vulnerable populations should not be placed in isolation for longer than 30 days. Some participants were not willing to come up with an exact time limit, but suggested instead that isolation should be used for the shortest amount of time necessary. Strong opposition was voiced to the 30-day limit for SMI, with reference to the American Psychiatric Association's Position Statement on Segregation of Prisoners with Mental Illness:

Prolonged segregation of adult inmates with serious mental illness, with rare exceptions, should be avoided due to the potential for harm to such inmates. If an inmate with serious mental illness is placed in segregation, out-of-cell structured therapeutic activities (i.e., mental health/psychiatric treatment) in appropriate programming space and adequate unstructured out-of-cell time should be permitted. Correctional mental health authorities should work closely with administrative custody staff to maximize access to clinically indicated programming and recreation for these individuals.¹⁹

Opinions were that 30 days is punishment; nothing is served by 30 days; and that 30 days should be the limit but less is better. The consensus proposal was that the recommendation should be for a duration of "much less than 30 days."

In discussing duration and time limits, the group also considered the issue of repeated or multiple placements in isolation and the frequency of isolated confinement for the same individual. Group members suggested many ideas, including a limit of only 15 out of 30 days per month depending on the circumstances, and no more than 15 days at a time without at least seven days of non-isolation between being released and before placing the individual back in isolation again. Some in corrections expressed concern about how to then handle disciplinary issues that might arise even immediately after a vulnerable person is released into general population. The group did not reach consensus on this issue.

c. When Should a Vulnerable Person in Isolation Be Assessed?

The group considered the need for prompt assessment of a vulnerable individual placed in isolation, particularly those with SMI needs. As a practical matter, participants noted there might be a lack of available hospital beds, limited resources in smaller or more rural facilities, or lack of other alternatives to remove the individual from isolated confinement. In such circumstances, a suggestion was made to assess the individual within 24 hours of being placed in isolation and to have access to mental health and medical services immediately, if possible, while in isolation.

However, it was recognized that there may not be another facility, unit, or alternative placement available because of a lack of resources, especially in areas that have small prison populations. Expanding on this suggestion, one advocate commented that the individual should be seen by a physician within an hour of being placed in isolated confinement, then must be reassessed a certain number of hours later, followed by a disciplinary team meeting to determine a treatment plan, and a reassessment once out of isolation.

The group considered how fast medical attention or assessment in isolation could occur and how detailed or specific a recommendation to make on this issue. Many seemed to think that it would only take two or three hours after a vulnerable person is placed in isolation to have that person assessed by a medical professional or a corrections official and that a treatment team should meet with the individual on day one. This assumption, however, runs counter to the current standard that provides for 72 hours to assess and formulate a plan. The group's ultimate recommendation adhered to this 72-hour standard.

d. Step-Down Programs for Vulnerable Populations.

The group considered methods for transitioning vulnerable populations out of isolation and back into less restrictive areas. In particular, participants considered step-down programs, which are incentive-based, multi-step processes that provide those placed in isolation the opportunity to earn enhanced privileges by refraining from participation in Security Threat Group affiliations and behaviors. The ultimate goal of a step-down program is to release the persons from the isolation unit.

Group 3 briefly discussed this issue and commented that a step-down program is a very good idea and should be a goal, but that some prisons with small populations of vulnerable individuals may not have the resources for such programming. One advocate noted that incarcerated persons should never be serving “dead time” – meaning time with no intervention or opportunity to improve one’s condition or term of imprisonment – and there should always be a next step where they receive services. This advocate mentioned that the mental health treatment programs function similarly to the step-down programs in some cases.

In the interest of time, group members agreed that they would endorse that step-down programs are a good idea, but that there was not enough time to discuss the details of such programs. Members also reached an understanding that resources or special circumstances might not allow for step-down programs in certain facilities.

4. Should There Be a Classification Appeal for Vulnerable Individuals?

The group disagreed whether the incarcerated person should have a say in his or her classification and placement into a separate unit. One advocate argued that the individual should have input, though not necessarily a vote. A corrections official countered that this might create an expectation that he did not believe was warranted. Others suggested that classifications to place people into separate units are a decision to be made at the facility level by mental health professionals. Ultimately, the group reached consensus that the procedures for determining whether to place a vulnerable person in the general population or in a separate unit should be reached through a multidisciplinary process that includes input from the individual. The group agreed, however, that this procedure need not be a formal process as is the case for an Individual Education Plan or a disciplinary due process hearing.

Group 3 then considered how to handle individuals who disagree with their classification either to be housed in a separate unit or to be placed in general population. Participants discussed liberty interests, due process issues, and the fact that, in many systems, classification is not grounds for a grievance. One of the corrections administrators stated that there may be procedures for an appeal to challenge one’s classification. No consensus was reached as to the nature of any such appeals process.

5. The Importance of Accountability and Transparency.

The members of Group 3 were unanimous in their belief that accountability and transparency is essential to reform efforts. Participants suggested that the public should be allowed into the prisons, critical advisory boards should be in place, outside monitoring allowed, and statistics about decisions should be made public. As part of this improved accountability, facilities should collect more data as to the performance of correctional institutions’ treatment of vulnerable populations to show the impact of implementing the Colloquium’s recommendations. Group 3 agreed that:

- *Transparency is critically important, because it ensures ethical and moral appropriateness and a commitment to positive performance.*
- *Transparency, external and internal accountability, and robust data that supports measuring outcomes are essential and critical to the success of these units and should be publicly available.*

The group also agreed on some measures that would help guarantee success, including collecting data on institutional force and violence, suicide attempts, grievances, disciplinary tickets, assaults on staff, and cell extraction.

6. The Road Ahead: Barriers to Reaching Goals Related to Vulnerable Populations. For its final question, Group 3 tackled barriers to reform measures. Everyone agreed that lack of resources is a barrier. Many of those most at risk present an expensive problem for the system, and money and resources need to be reinvested in separation units to address these vulnerable individuals. One participant suggested that it might be that we cannot run our current prison systems the way we want to with currently allocated resources and funding. States must invest in creating new prison environments in locations that will support the needs of vulnerable populations.

To express these thoughts it was agreed that:

- *These are barriers to achieving reform that will be distinct based on the facility and jurisdiction.*
- *Resources will vary by the system and state and each jurisdiction is ultimately going to have to come up with a solution for adequate resources that will work for their system through new funding or redistribution.*

Part III

Recommendations

What follows is a reconciliation of the recommendations emerging from each of the three groups and reflects the general consensus of the participants of the Colloquium. Not all participants are in agreement with each and every recommendation, but the recommendations that follow have the support of the majority of those in attendance.

- 1. Segregation should be used for the minimum time and in the least restrictive conditions necessary to resolve the condition that led to the segregation.**
 - 1.1 For those in segregation or restricted housing, the goal should be to get them into the least restrictive housing possible. If they are separated from the general population, it should be for the shortest amount of time necessary. We urge correctional officials to consider alternatives to segregation or restricted housing.
- 2. Separation is one alternative to segregation or restricted housing. This can be accomplished through moving someone to a different area of a facility, a different facility, or a different prison system.**
- 3. Positive incentives should be incorporated into the management of all incarcerated people, including those in segregation or restricted housing.**
 - 3.1 All isolation should have an incentive component, which would restore certain privileges if the individual were able to reach certain behavioral goals. Ideally, these incentive programs would operate on relatively short timeframes—e.g., two days of good behavior earns a reward—so that incarcerated persons would quickly begin to see their good behavior rewarded. Participants also agreed that isolation should have a goal of changing specific behavior and an individualized achievable path to reach it.
- 4. Even for the most restrictive segregation, the conditions should be humane. These conditions should include, at a minimum: access to natural light; control of light in cells; basic sanitary and safe environmental conditions including adequate space, ventilation and temperature; adequate nutrition; adequate medical and mental health services; and reading materials. There should be initial and subsequent periodic mental health evaluations of those in segregation or restricted housing to determine whether changes in conditions of confinement are warranted for mental health reasons.**
 - 4.1 Segregation must include meaningful mental health rounds, health care rounds, and adequate basic conditions.
 - 4.2 Apart from the briefest possible initial period, all incarcerated persons in segregation or restricted housing should have some access to out-of-cell time, congregate activity, meaningful social interaction, programming/interventions, phone calls, and visits, recognizing that the extent of these privileges may be more limited than in general population. The most restrictive segregation should be for the shortest amount of time necessary.

- 4.3 Segregation or restricted housing for investigation purposes should be brief and may require a brief period of restricted contact with others.
- 5. We recognize that there is a small number of people who will require prolonged separation from the general population because they pose a threat of violence to incarcerated persons or staff.**
- 5.1 Their separation from the general population is not punitive and should not be experienced that way. For these people, the conditions should be humane and as close to general population conditions as possible (in addition to the basic conditions listed in item 4 above).
- 5.2 These people should be provided with interventions to address their needs and to promote their safe transition back to less restrictive settings.
- 6. All people in segregation or restricted housing should be periodically reviewed to determine whether they could be released to a less restrictive environment (e.g., having met treatment goals).**
- 7. Responses to disciplinary infractions should be imposed on a continuum, with segregation as the tool of last resort.**
- 7.1 Segregation or restricted housing for disciplinary or management purposes should be used only for the most serious behavioral offenses, such as violence or threats of violence.
- 7.2 It should not be used for problems such as gang affiliation, status, or political beliefs, or for minor infractions, except for a brief segregation period for investigation or cooling-off purposes.
- 8. There must to be due process protections in place.**
- 8.1 These must include procedural safeguards for placement in segregation, periodic review during segregation, and an exit mechanism.
- 8.2 This process should consider the severity of the offense, length of time spent in segregation, fairness, and the ability of the individual to comply with imposed conditions.
- 9. The loss of privileges needs to be proportionate to the infraction and must include a pro-social incentive system to restore the privileges.**
- 10. There should be family contact allowed while incarcerated people are in segregation, as the loss of family contact can be extremely agitating for both the incarcerated person and the family; increasing family contact and visits for improved behavior can provide a strong incentive.**
- 11. Loss of programming, social contact, and family contact should be reserved for more serious infractions or after other punishments have proved ineffective.**
- 12. Anyone who is in segregation or restricted housing for more than a brief period of time should be provided with interventions to address their needs and promote their safe transition back to less restrictive settings.**
- 13. Incarceration should be avoided whenever possible to prevent bringing vulnerable populations²⁰ into the prison system in the first place (e.g., juveniles should be in youth systems and should never be in adult prisons; people with mental illness should receive treatment and services elsewhere; elderly and infirm should be released on parole; etc.).**
- 14. Where incarceration cannot be avoided, every reasonable effort should be made to manage the vulnerable individual within the general population environment and provide adequate services to meet their needs while in the general population.**

- 14.1 The determination to place a vulnerable person in the general population or in a separate unit should be made through a multidisciplinary process that includes input from the prisoner, regarding which special unit they should be placed in. The procedure need not be a formal procedure such as an IEP or a disciplinary due process hearing.

15. Where general population placement cannot be effectively managed without posing an unacceptable risk, vulnerable populations should be assigned to separate living units where their needs can be appropriately met with a goal of maximizing congregate activity, habilitative, rehabilitative, and programmatic opportunities.

- 15.1 The separation accomplished in these living units is separation from the risk posed by general population, not separation or isolation from all other individuals. The conditions of confinement in these separate units should never be punitive.

16. For significantly vulnerable individuals at high risk of harm in extreme isolation, such isolation should be imposed only as a very temporary emergency measure, for no more than 15 days, when absolutely necessary to address immediate serious safety needs. No later than 72 hours following placement in extreme isolation:

- 16.1 Measures to reduce social isolation, to ameliorate the risks from extreme isolation, and to soften the environment should begin: e.g., for prisoners with serious mental illness, structured therapeutic activities (i.e., mental health/psychiatric treatment) in appropriate programming space and adequate unstructured out-of-cell time; measures to allow pregnant women adequate access to large-muscle exercise; etc.

- 16.2 Efforts to assess the prisoner's behaviors and the best strategies towards a goal of alternative long-term housing should begin.

17. In extraordinary cases in which a stay of longer than 15 days is essential, any extension must be based on an authorization by medical or mental healthcare professionals in the exercise of their independent professional judgment, with additional review each seven days thereafter, or more often if needed, and in no case shall extreme isolation for significantly vulnerable individuals extend beyond 30 days.

18. There is a consensus on endorsing step-down programs for vulnerable individuals, but no exact procedures for step down were agreed upon.

19. We acknowledge the importance of transparency in furthering reform and believe transparency and accountability further the goals of public safety. Transparency increases awareness and trust for the public, prison staff, and incarcerated persons. Transparency is mission critical and ensures ethical and moral appropriateness and the commitment to positive performance.

20. Every agency should have data on the use of segregation or restricted housing, including:

- 20.1 Demographics of individuals in segregation/restricted housing;
- 20.2 The nature of segregation/restricted housing;
- 20.3 Length of time in segregation/restricted housing; and
- 20.4 Where individuals were released (internally or to the community).
- 20.5 Agencies should track the outcomes of those who are released from segregation.

20.6 It is essential there be robust data collection that measures the outcomes critical to the success of these units. This should be publicly available. Data should include:

- 20.6.1 *Institutional violence*
- 20.6.2 *Cell extraction*
- 20.6.3 *Suicide attempts*
- 20.6.4 *Grievances*
- 20.6.5 *Disciplinary tickets*
- 20.6.6 *Assaults on staff*

20.7 Agencies should also:

- 20.7.1 *Have the capacity to undertake research and data collection.*
- 20.7.2 *Make data publicly available on their websites on a regular basis.*
- 20.7.3 *To the extent possible, be open to outside research projects for both external and internal accountability.*

- 21. Communication between advocates and correctional administrators may avoid needless litigation, assure the responsible stewardship of funds, and help both correctional staff and the public at large to understand reform in public safety terms.**
- 22. Advocacy should also focus on legislation to ensure sufficient resources, including reallocation of resources saved by reducing segregation or restricted housing. There are barriers to achieving reform that will be distinct based on the facility and jurisdiction. There is consensus that adequate resources will be needed to meet the recommendations set out above either through new funding or reallocation of savings.**
- 23. Efforts must be made to get staff “buy in” on reforms from the outset. Correctional management should find ways to celebrate courage in the service of public safety through small victories.**
- 24. We call for a separate conversation and set of recommendations on segregation or restricted housing for jails and juvenile justice facilities.**

Part IV

After the Colloquium: Next Steps

Although the Colloquium resulted in the consensus recommendations above, much remains to be done. Areas of disagreement and questions for further exploration remain. For instance, participants recommended continuing discussions specifically directed to the unique challenges facing jails and juvenile corrections institutions.

The first step that should be taken is to publicize and write about the recommendations herein. Jurisdictions that did not participate will require assistance to understand and implement these recommendations. Opportunities to incorporate the ideas emanating from this Colloquium exist in the work of the Vera Institute of Justice's "Safe Alternatives to Segregation" initiative to provide assistance to state and local jurisdictions interested in implementing some of these ideas. We have already discussed and shared these recommendations with the Vera Institute and are exploring opportunities to support its work and incorporate these recommendations into its practice.

As important as the recommendations themselves, what emerged from this Colloquium was the beginning of meaningful and respectful dialogue between parties on both sides of the issue who hold competing views of the problem. This dynamic should be continued by bringing the group together again to hear about progress, learn from the research being done by the Vera Institute and others about what works, advance the discussion of outstanding issues, and narrow the range of disagreement.

Consensus methods have been used productively to solve problems in medicine and health.²¹ Their main purpose is to define levels of agreement on controversial subjects. Learning from the medical profession, this Colloquium can serve as the beginning of a "consensus development" effort within corrections to address the use of social isolation. Advocates suggest that, when properly employed, consensus strategies can create structured environments in which experts are given the best available information, allowing their solutions to problems to be more justifiable and credible than otherwise. The challenge moving ahead will be selecting problems, choosing members for consensus panels, specifying acceptable levels of agreement, properly using empirical data, obtaining professional and political support, and disseminating results.

Examples of issues requiring further discussion include the best ways to manage the process of "stepping down" an individual from social isolation in prison, specific time limits on the use of extreme social isolation, and definitions of "serious" disciplinary infractions as distinguished from minor infractions that do not warrant the use of social isolation as punishment. The goal would be to identify common definitions and develop best practices.

Finally, the strong recommendation from the Colloquium for transparency and accountability requires further work to determine accurately the state of knowledge and available data in each jurisdiction regarding the prevalence and frequency with which different forms of social isolation are being employed, how they are defined, and their outcomes. Efforts have begun, including groundbreaking work by the Liman Center at Yale Law School and the Association of State Correctional Administrators to quantify the use of “Administrative Segregation.”²² A first step would be to survey jurisdictions to determine where their segregation policies meet, exceed, or fall short of these articulated consensus principles, then to assess which policies require rewriting. Subsequent reports could analyze how changes based on these principles have impacted policy and program outcomes. Finally, there may be an opportunity to revisit the principles in a few years to see where greater consensus or new principles have emerged as a result of implementation experiences on the ground.

John Jay College of Criminal Justice, Professor Martin Horn, and the Prisoner Reentry Institute look forward to continuing our efforts to advance these goals.

APPENDIX A

Participants' Biographies

John Baldwin was named director of the Illinois Department of Corrections on August 14, 2015, by Governor Bruce Rauner. As IDOC director, he is responsible for overseeing the management and operations of more than 35 state prisons, work camps, boot camps and transition centers as well as the supervision of parolees. Baldwin brings more than 35 years of overall experience to the position. He was the director of the Iowa Department of Corrections for eight years, where he oversaw a staff of nearly 4,000 officers and an offender population of 38,000. During his tenure, Baldwin worked with the Pew-MacArthur Results First Initiative to build a state-specific cost-benefit analysis on the state's corrections department. The data was used to make more informed policy and budget decisions in an effort to reduce recidivism. Baldwin began working for the Iowa Department of Corrections in 1983. In addition to his leadership as director, he served as the deputy director of Administration where he oversaw a number of areas including the budget, personnel, and evidence-based practices. Baldwin holds a master's degree in political science from Iowa State University and a bachelor's degree in economics from the University of Iowa.

Sarah Baumgartel, Senior Liman Fellow in Residence, joined the Liman Program at Yale Law School in 2015. From 2008 to 2015, she was an Assistant Federal Defender with the Federal Defenders of New York. She was also a Lecturer in Law at Columbia Law School from 2014 to 2015. Ms. Baumgartel holds degrees from Harvard Law School and Duke University. Prior to her work with Federal Defenders of New York, she worked as an attorney handling civil and criminal litigation.

Jeffrey A. Beard, Ph.D. was appointed as Secretary of the California Department of Corrections and Rehabilitation by Governor Edmund G. Brown, Jr., on December 27, 2012. He also serves as Chairman of the Prison Industry Board. Prior to his appointment as Secretary, Dr. Beard began his criminal justice career in 1972 with the Department of Corrections in Pennsylvania (DCP) as a corrections counselor. During his retirement, Dr. Beard has served as a consultant and/or instructor to the National Institute of Corrections, corrections agencies and various companies on correctional matters, security, performance measures, mental health issues, evidence-based programs and assessment. Dr. Beard holds a B.S. in psychology, and an M.Ed and Ph.D. in counseling, all from the Pennsylvania State University. He is a member of the Pennsylvania Prison Wardens Association (PPWA), American Correctional Association (ACA), Western Association of Correctional Administrators (WACA) and the Association of State Correctional Administrators (ASCA). During his tenure as Secretary in Pennsylvania he served on the National Institute of Justice's Law Enforcement and Corrections Technology Advisory Committee (LECTAC), the last three years of which he served as vice chair for Corrections.

Jack Beck has been the Director of the Prison Visiting Project at the Correctional Association of NY (CA) since 2014. The CA has statutory authority to inspect prisons in NY State and to report its findings to the legislature and public. At the CA, he has focused on monitoring conditions within NY prisons, including confinement in disciplinary housing; safety and violence in the prisons; prison medical and mental health care; and treatment of persons in prison with substance abuse histories. Prior to the CA, he was a Senior Supervising Attorney at the Prisoners' Right Project (PRP) of the Legal Aid Society, where he worked for 23 years. At PRP, he pursued federal class action litigation on behalf of people in state prisons and New York City jails. He specialized in medical care issues, with particular focus on HIV/AIDS and Hepatitis C. He is a member of several statewide coalitions concerned with (1) incarcerated persons placed in isolated confinement, and (2) medical and/or mental health care in prisons that advocate for legislation to improve care of persons inside, particularly those infected with HIV and/or hepatitis C and those who suffer from mental illness and have been placed in isolated confinement.

Leann K. Bertsch was appointed Director of the North Dakota Department of Corrections and Rehabilitation on July 1, 2005, by Governor John Hoeven. Prior to serving as Director, Bertsch served as the Commissioner of the North Dakota Department of Labor from September 2004 through June 2005. Prior to entering state government, Bertsch served as an Assistant State's Attorney for Burleigh County from August 1996 through August 2004. From 1992 through 1996, Bertsch worked as an attorney for Legal Assistance of North Dakota. Bertsch also served 21 years in the North Dakota National Guard, retiring as a Major in the Judge Advocate General's Corp in 2007. As Corrections Director, Bertsch has worked to implement evidence-based practices throughout the North Dakota Corrections system focusing resources on long-term offender behavior change as opposed to monitoring and compliance. Bertsch has been active on various commissions including the Commission for the Study of Racial and Ethnic Bias in the Courts; the Commission on Alternatives to Incarceration; the Governor's Task Force on Violent and Sexual Offenders; the Interagency Council on Homelessness; and the Stop Violence Against Women Advisory Committee. Bertsch also serves as an officer of the Association of State Correctional Administrators. Bertsch earned a Juris Doctor from the University of North Dakota School of Law and Bachelor of Science degree from North Dakota State University.

Brett Dignam joined the Columbia Law School faculty in 2010. She came to Columbia from Yale Law School, where she led the Prison Legal Services, Complex Federal Litigation and Supreme Court Advocacy clinics. An award-winning teacher, Professor Dignam has supervised students in a broad range of litigation matters and has designed and overseen workshops conducted by students for prisoners at the Federal Correctional Institution in Danbury, Connecticut, on issues including immigration, sexual assault, and exhaustion under the Prison Litigation Reform Act. She has participated in major litigation in over 30 federal and state cases in the area of prisoners' rights. Before entering the legal academy, Professor Dignam served as a law clerk for the Honorable William H. Orrick, U.S. District Court in San Francisco, California, and then developed a prison litigation practice in both federal and state courts. As an associate professor at Yale Law, Dignam taught and supervised students in Prison Legal Services, Poverty/HIV, Landlord/Tenant and Immigration clinics, guiding students through administrative hearings, state and federal trial and appellate courts on issues ranging from state habeas claims to violations of the Voting Rights Act. Dignam received her J.D. from the University of Southern California, where she was student director of the USC Prison Law Project and chair of the Hale Moot Court Honors Program. She has a Master of Arts degree in theater from the University of California at Los Angeles. She received her B.A. from Mount Holyoke College.

Jamie Fellner, Esq., Senior Advisor of the U.S. Program of Human Rights Watch, is engaged in research, documentation and advocacy on US criminal justice issues. Much of her work has focused on human rights abuses in US prisons, and she has written about inadequate treatment and conditions of confinement for inmates with mental illness, prison rape, solitary confinement, abusive use of force, aging prisoners and the lack of compassionate release. In addition, she has engaged in extensive research and advocacy on pretrial policies and practices and on racial disparities in drug law enforcement. She brings to this work decades of national and international professional experience. Ms. Fellner was a commissioner on the National Prison Rape Elimination Commission. She has authored and co-authored numerous published reports and articles addressing human rights problems in the United States. Ms. Fellner received her law degree from the School of Law at the University of California, Berkeley, a M.A. from Stanford University and a B.A. from Smith College.

Amy Fettig serves as Senior Staff Counsel for the ACLU's National Prison Project (NPP). At NPP, she litigates federal class action prison conditions cases. Her practice focuses on claims regarding medical and mental health care in prison, solitary confinement, prison rape and sexual abuse, and comprehensive reform in juvenile facilities. Ms. Fettig is also the Director of the ACLU's nationwide Stop Solitary campaign seeking to end the practice of extreme isolation in our nation's prisons, jails and juvenile detention centers through public policy reform, state and federal legislation, litigation and public education. A leading authority on women prisoners, Ms. Fettig also works with a wide range of ACLU affiliates on both campaigns to end the shackling of pregnant women and their advocacy strategies around women's health in prison. A national expert on prisoner rights law, she provides technical legal assistance and strategic counsel to advocacy groups and lawyers around the country and has served as an Adjunct Professor of Law at Georgetown University. She holds a B.A., with

distinction, Carleton College; a Master's from Columbia University, School of International and Public Affairs; and a J.D. from Georgetown University. Ms. Fettig is a member of the New York State Bar (2002) and the Bar for the District of Columbia (2006).

Marshall L. Fisher has served as commissioner of the Mississippi Department of Corrections since Jan. 1, 2015. He oversees over 2,600 employees with a \$357 million budget for three state prisons, four private prisons, 15 regional facilities, 10 community work centers, three technical violation centers, and four restitution centers. A reputed coalition builder who has worked in local, state and federal law enforcement, Fisher has years of experience in overseeing complex public safety issues. When Gov. Phil Bryant named him commissioner, Fisher was state director for the Mississippi Gulf Coast High Intensity Drug Trafficking Area, where he was a liaison for drug task forces and area law enforcement agencies. Fisher accepted the federal post after spending nearly 10 years as the state's top narcotics enforcer. He was executive director of the Mississippi Bureau of Narcotics from 2005-2014, acting as the senior advisor to the governor and the Mississippi Legislature on drug policy matters. Fisher led MBN after retiring from the Drug Enforcement Administration, where he once served as Agent in Charge of Mississippi DEA operations. During a DEA career that spanned two decades, he was assigned to field offices in Texas, Kansas, and Kentucky and DEA Headquarters in Washington, D.C., where he was section chief in the Office of Domestic Operations to Europe, Asia, Africa and Canada. In 2010, Fisher received the National Impact Award for his anti-methamphetamine efforts. He is also the 2011 recipient of the Jim Ingram Lifetime Achievement Award and the 2015 recipient of the George Phillips Public Service Award. Fisher started his law enforcement career as a police officer in Texas. He is a U.S. Navy veteran and a graduate of the University of Memphis, with a Bachelor of Arts degree in criminal justice.

Robert Fleischner is an attorney and assistant director at the Center for Public Representation, a national public interest law firm in Northampton, Massachusetts. He has represented people with disabilities since 1973, when he graduated from Boston College Law School. He has litigated and argued appeals in prison and juvenile justice reform cases on behalf of adults and youth with mental illness, including those held in segregation. His other litigation includes school-to-prison pipeline, civil commitment, right to treatment, guardianship and community integration cases. He has consulted with dozens of state Protection and Advocacy programs on criminal and juvenile justice issues. He is co-author of *Guardianship and Conservatorship in Massachusetts*, 2d Ed., (Lexis) and has authored numerous law journal articles. Bob has served on the adjunct faculties of Western New England University Law School and Smith College School for Social Work, teaching courses on juvenile justice and disability law.

Dr. Stuart Grassian of Massachusetts is a Board-certified psychiatrist who was on the teaching staff of the Harvard Medical School for almost thirty years. He has had extensive experience in evaluating the psychiatric effects of stringent conditions of confinement and has served as an expert in both individual and class-action lawsuits addressing this issue. Dr. Grassian described a particular psychiatric syndrome resulting from the deprivation of social, perceptual, and occupational stimulation in solitary confinement. His observations and conclusions have been cited in a number of federal court decisions, for example: *Davenport v. DeRobertis*, 844 F.2d 1310 (7th Cir. 1988), and *Madrid v. Gomez*, 889 F. Supp. 1146 (N.D. Cal. 1995). In his publications, he described the extensive body of literature, including clinical and experimental literature, regarding the effects of decreased environmental and social stimulation in a variety of situations, and specifically, observations concerning the effects of segregated prison confinement.

Ron Honberg, J.D., serves as the national director for policy and legal affairs at NAMI, the National Alliance on Mental Illness. As director of NAMI's policy team, Mr. Honberg oversees NAMI's work on federal and state policy issues and on legal issues. In recent years, he has worked particularly on issues affecting people with mental illnesses involved with criminal justice systems, including jail diversion, correctional treatment, and community reentry. He was also one of the lead authors in NAMI's 2006 "Grading the States" report. During his nearly eighteen years with NAMI, Ron has drafted amicus curiae briefs in precedent-setting litigation impacting people with mental illnesses and has provided technical assistance to attorneys and NAMI affiliates. He has also published a number of articles on policy and

legal issues affecting people with mental illness and other disabilities. Before coming to NAMI in 1988, Mr. Honberg worked as a Vocational Rehabilitation Counselor for the State of Maryland and in a variety of direct service positions in the mental illness and developmental disabilities fields. A former president of the Maryland Rehabilitation Counseling Association, he served in a voluntary capacity for six years on the board of directors of St. Luke's House, a psychiatric rehabilitation program serving over 400 clients in Montgomery County, Maryland. Mr. Honberg has a Juris Doctor degree from the University of Maryland School of Law and a Master's Degree in Counseling from the University of Maryland.

Terry A. Kupers, M.D., M.S.P., is Institute Professor at The Wright Institute and Distinguished Life Fellow of the American Psychiatric Association. He provides expert testimony in class action litigation regarding the psychological effects of prison conditions, including isolated confinement in supermaximum security units, the quality of correctional mental health care, and the effects of sexual abuse in correctional settings. He is author of *Prison Madness: The Mental Health Crisis Behind Bars and What We Must Do About It* (1999) and co-editor of *Prison Masculinities* (2002). He is a Contributing Editor of Correctional Mental Health Report. He received the 2005 Exemplary Psychiatrist Award from the National Alliance on Mental Illness (NAMI).

Gary M. Lanigan, who has more than three decades of experience in the criminal justice and financial management realms, was confirmed as Governor Chris Christie's choice as Commissioner of the New Jersey Department of Corrections (NJDOC) in March 2010. As head of the NJDOC, Mr. Lanigan is responsible for a budget of roughly \$1 billion, approximately 8,000 employees, 13 correctional institutions and more than 21,000 state-sentenced offenders housed in prisons, county jails and community halfway houses. Mr. Lanigan also was employed by the New York City Department of Correction, serving as the Deputy Commissioner of Administration, followed by a position as First Deputy Commissioner. In addition, Mr. Lanigan served as an Assistant Commissioner with the New York City Police Department and as an analyst with the New York City Office of Management and Budget. The Commissioner, a veteran of the United States Navy, received both a Master of Public Administration degree and a Bachelor of Science degree in business administration from Bernard M. Baruch College. He is also a graduate of the Police Management Institute sponsored by the Columbia University Graduate School of Business. Mr. Lanigan also attended the John F. Kennedy School of Government at Harvard University Leadership Institute.

Jules Lobel is the Bessie McKee Walthour Endowed Chair at the University Of Pittsburgh School of Law. Recently, Lobel co-authored the award winning book *Less Safe, Less Free: Why America is Losing the War on Terror* (2007) with Professor David Cole, which won the first Roy C. Palmer Civil Liberties Prize for exemplary scholarship exploring the tension between civil liberties and national security. He is also the author of *Success without Victory: Lost Legal Battles and the Long Road to Justice in America* (2003) and editor of several books on civil rights litigation as well as the U.S. Constitution. He has authored numerous articles on international and constitutional law in publications including Yale Law Journal, Harvard International Law Journal, Cornell Law Review, University of Pennsylvania Law Review and Virginia Law Review. Lobel is also President of the Center for Constitutional Rights, a national human and constitutional rights organization headquartered in New York City.

Joe Luppino-Esposito is a Policy Analyst for Right on Crime and the Center for Effective Justice at the Texas Public Policy Foundation. Joe serves as the Foundation's liaison in the nation's capital, working with Congress and allied organizations to develop criminal justice reforms. Prior to joining TPPF, Joe was the Editor and General Counsel of State Budget Solutions, focusing on public employee pensions, labor law, and state budget reforms. As the Visiting Legal Fellow at the Heritage Foundation, Joe worked on the over-criminalization project, analyzing federal criminal laws. Joe is a graduate of Seton Hall University School of Law, where he was Editor in Chief of the Circuit Review legal journal. He received a B.A. from the College of William and Mary. Joe is a licensed attorney in Virginia. He is a New Jersey native and currently resides in Virginia.

Gregg Marcantel, a United States Marine Corps (USMC) veteran, is an experienced law enforcement executive for over three decades. Gregg currently serves the State of New Mexico as Cabinet Secretary for the New Mexico Corrections Department. Before assuming his current post, Gregg served the New Mexico Department of Public Safety as their Deputy Cabinet Secretary following his retirement from the Bernalillo County Sheriff's Department in Albuquerque, New Mexico as a Division Commander. During Gregg's career, he successfully completed the Federal Bureau of Investigation's National Academy and currently serves as the President of the New Mexico FBI National Academy Associates. Gregg also attended the Bramshill Police Staff College in the United Kingdom, where he studied the leadership and management of serious and serial crimes. He possesses a Master of Science Degree in Forensic and Legal Psychology from the University of Leicester and a Bachelor Degree in Criminal Justice from Chaminade University of Honolulu. Throughout his public safety career, Gregg has received numerous awards ranging from the Navy Achievement Medal in the USMC to national recognition by the Department of Justice and the Drug Enforcement Administration, to include receipt of the Nation's Top Cop Award by the National Association of Police Organizations in Washington, D.C. He has presented both nationally and internationally on a host of complex criminal investigation strategies and served in university adjunct faculty roles relating to the delivery of a variety of criminal justice courses to include Criminal Investigations, Behavior-based Rape Investigations, Murder: An Analytical Study, Police Supervision and Management, as well as Forensic Psychology.

Rev. Laura Markle Downton is the Director of U.S. Prisons Policy and Program at the National Religious Campaign Against Torture (NRCAT), an interfaith membership organization working to end torture in U.S. policy, practice and culture. Rev. Markle Downton directs the state and federal advocacy agenda for interfaith leadership in NRCAT's campaign to end torture in U.S. prisons and jails, with a focus on ending long-term solitary confinement. She provides coordination, training, resource development, and technical direction to faith-based organizations nationally. Most recently, she has developed programmatic tools for faith community outreach including supervising the production of a documentary about solitary confinement called "Breaking Down the Box," and coordinated a nationwide tour of a solitary confinement prison cell replica. Prior to joining NRCAT, Rev. Markle Downton was a National Organizer for the General Board of Church and Society of the United Methodist Church, building networks among communities of faith engaged in the promotion of restorative justice. She has worked with diverse religious communities and legal advocates for employment and housing justice in Washington, DC and Philadelphia, PA. She is a Provisional Elder in the Baltimore-Washington Annual Conference of The United Methodist Church. Rev. Markle Downton holds a M.Div. from Princeton Theological Seminary, is a Midwest Academy trained organizer, and holds certification from the Strategies for Trauma Awareness and Resilience (STAR) Program of Eastern Mennonite University.

Terri McDonald, a 24-year veteran of the California Department of Corrections and Rehabilitation (CDCR) was recently appointed to the position of Assistant Sheriff by Sheriff Lee Baca and will oversee the Custody Division of the Los Angeles County Sheriff's Department. Assistant Sheriff McDonald's career in law enforcement began in 1988 as a Correctional Officer with the California Department of Corrections and Rehabilitation. During her tenure with the CDCR, she literally worked her way up through the ranks of the Department, working as an Officer, Sergeant, Lieutenant, Captain, including Captain at Folsom State Prison, Associate Warden, Chief Deputy Warden, Division Chief, Chief Deputy Secretary and Undersecretary. Additionally, she oversaw the Statewide Classification Unit, Statewide Population Management Unit, assisted in revamping the correctional officer academy, and oversaw and activated out-of-state prisons with California inmates. Prior to her employment with the Department, Assistant Sheriff McDonald oversaw California's state prisons, juvenile justice, gang unit, fugitive apprehension unit, victim services, rehabilitative programming and the Ombudsman's office. Assistant Sheriff McDonald holds a Bachelor of Science Degree in Leadership in Law Enforcement, graduating with Honors from the University of San Francisco.

Shirley Moore Smeal is the Executive Deputy Secretary for the Pennsylvania Department of Corrections. She oversees administrative, programmatic, security and operational areas for the Department. She participated in a correctional system reform effort that resulted in the largest population reduction in the Department's history. Moore Smeal is responsible for enacting all provisions of the Justice Re-Investment initiative within the Department, to include the complete restructuring of our Community Corrections System. Moore Smeal is a member of the Pennsylvania Prison Warden's Association (PPWA) and is a recipient of its lifetime achievement award. She is also a member of the American Correctional Association and Association of Women Executives (AWEC). Moore Smeal holds a bachelor's degree in business administration from Edinboro University.

Carol Higgins O'Brien was appointed Commissioner of the Massachusetts Department of Correction on September 10, 2014, by the Secretary of the Executive Office of Public Safety and Security (EOPSS) Andrea Cabral. Carol's career began as an entry level Corrections Counselor at MCI-Concord in 1984. She remained with the DOC for 15 years, served in three facilities and was promoted from Director of Programs to Director of Treatment to Deputy Superintendent. In 2000, she left the DOC to accept an appointment by Sheriff Frank Cousins to the position of Superintendent of the Essex County Correctional Facility, responsible for care, security and rehabilitation of over 1,100 inmates. In 2002, she was appointed by former Governor Jane Swift to be Undersecretary of Criminal Justice in the EOPSS. Following the transition from the Swift to the Romney Administration, she returned to the Essex County Sheriff's Office, where she managed three community corrections centers and oversaw inmate programs and education. Commissioner Higgins O'Brien holds a Master's Degree in Criminal Justice from UMass-Lowell and is a graduate of the Kennedy School of Government Senior Executive Program at Harvard University. She is also an adjunct professor at UMass-Lowell in the Criminal Justice and Criminology Department, where she teaches courses on violence in America, institutional corrections and community-based corrections and is also a member of the UMass Lowell Criminal Justice Alumni Advisory Board. She is also an active member of the American Correctional Association (ACA) and the Association of State Correctional Administrators (ASCA).

Taylor Pendergrass is a senior staff attorney at the New York Civil Liberties Union (NYCLU), and before that a staff attorney at the ACLU of Colorado. He focuses on litigation and advocacy related to criminal justice reform. He co-authored a human rights report on the use of solitary confinement in New York prisons, filed complaints with international human rights bodies regarding the issue, and is currently lead counsel in the NYCLU's class-action lawsuit challenging those practices. He has been involved in advocating for reforms to solitary confinement practices in the New York City jails on Rikers Island. He was counsel on the NYCLU's class action lawsuit challenging New York's broken indigent criminal defense system, a lawsuit challenging the NYPD's stop-and-frisk practices, and lawsuits challenging inhumane conditions in jails and prisons. He is a graduate of Duke University and the University of Colorado School of Law.

Joseph Ponte has earned a national reputation as a successful reformer in his more than 40-year corrections career. A native of Massachusetts, Ponte has served in jails and prisons around the country, including in Nevada, Florida, Tennessee, New Jersey, Rhode Island and Massachusetts. His broad experience – from frontline correctional officer, to warden, to director and commissioner – gives him a unique perspective and granular understanding of corrections-system management. Before becoming the Commissioner of New York City's Department of Correction in April 2014, Ponte served as Commissioner of the Maine Department of Corrections since 2011, where he instituted substantial reforms, making the system a national leader. He has also served as director of the jail in Shelby County, Tennessee, which includes the city of Memphis – helping transform the violence-prone jail while supporting its staff. Under his leadership, the jail gained accreditation by the American Correctional Association – a certification of merit. Ponte is a Marine Corps veteran (1965-1969) and holds a bachelor's degree in political science from Bridgewater State College.

Rick Raemisch has been Executive Director of Colorado Department of Corrections since July 2013. Mr. Raemisch's career spans three decades as a Deputy Sheriff, Prosecutor, Elected Sheriff and Head of Wisconsin's Department of Corrections. His professional career started at the Dane County Sheriff's Office in Madison, Wisconsin. He worked from 1976 to 1988 as a deputy sheriff and then as an undercover narcotics detective who also investigated homicides. During the same time, he attended law school and then joined the Dane County District Attorney's Office in Madison as an Assistant District Attorney. He held that job for a year before joining the U.S. Attorney's Office in Madison in 1989 as an Assistant U.S. Attorney. He was appointed sheriff in Dane County in 1990 and elected four more times. In 1997, he entered the private sector until 2002 when he re-entered the public sector as a tax appeals commissioner for the State of Wisconsin's Tax Appeals Commission. He joined the State of Wisconsin's Department of Corrections in 2003 and for the next four years worked as Division Administrator of Community Corrections, in which he had oversight of 68,000 probation and parolees, and then worked as Deputy Secretary. He was named Secretary of the Wisconsin Department of Corrections in 2007. He has received numerous honors throughout his career, including being named the Wisconsin Law Enforcement Executive of the Year by Wisconsin Attorney General Jim Doyle. He earned a bachelor's degree from the University of Wisconsin-Stevens Point and a J.D. with honors from the University of Wisconsin Law School.

Heather Rice-Minus serves as Director of Government Affairs for Justice Fellowship (JF), the advocacy arm of Prison Fellowship. She brings a wealth of experience in policy development and advocacy as a lobbyist on Capitol Hill. As staff lead on JF's federal and state legislative strategy, Rice-Minus works with the faith community, think tanks, and other stakeholders to advance criminal justice reforms, including policies addressing sentencing for drug offenses, prison conditions, victims' rights and services, and reentry programming, among others. Prior to joining JF, Rice-Minus worked as Director of U.S. Prisons Policy for the National Religious Campaign Against Torture and also spent a year in East Africa teaching English and volunteering in orphanages. Rice-Minus was commissioned as a Centurion by the Chuck Colson Center for Christian Worldview in May 2014. She holds a Juris Doctor from George Mason University School of Law and is a member of the Virginia Bar.

Margo Schlanger teaches and writes about constitutional law, civil rights, and prisons at the University of Michigan Law School. In 2010 and 2011, she was the presidentially appointed Officer for Civil Rights and Civil Liberties at the U.S. Department of Homeland Security, the Secretary's lead advisor on civil rights and civil liberties issues, including those relating to immigration detention. She played a key role in DHS's reforms of solitary confinement and sexual abuse prevention. Professor Schlanger earned her J.D. from Yale and served as law clerk for Justice Ruth Bader Ginsburg from 1993 to 1995. Next, she was a trial attorney in the U.S. Department of Justice Civil Rights Division, where she worked to remedy civil rights abuses by prison and police departments. She served on the Vera Institute's Commission on Safety and Abuse in America's Prisons and was the reporter for the American Bar Association's Standards on the Treatment of Prisoners. She founded and runs the Civil Rights Litigation Clearinghouse.

Scott Semple joined the Connecticut Department of Correction as a front line Correction Officer in 1988 at the high security Cheshire Correctional Institution. While working up the ranks, he has held key positions within the agency, including a supervisor at the training academy, the agency's spokesperson, and the Legislative Liaison for the department. In 2004, Commissioner Semple was assigned to the Garner Correctional Institution where he fulfilled a critical role in establishing the agency's first consolidated environment for male offenders with significant mental health needs. He would later serve as the Unit Administrator/Warden at that same facility. In November 2013, then Commissioner James E. Dzurenda appointed Semple as the Deputy Commissioner of Operations and Rehabilitative Services. Less than one year later, with the retirement of Commissioner Dzurenda in August 2014, Semple was chosen to serve as the Interim Commissioner for the agency. On March 10, 2015, a Senate resolution unanimously passed consent on the appointment of Semple as Commissioner for the Connecticut Department of Correction.

Bryan P. Stirling was appointed by Governor Nikki Haley as Director of the South Carolina Department of Corrections effective October 1, 2013. He is responsible for a staff of over 5,700 employees at SCDC that operates 24 penal institutions across the state incarcerating more than 21,500 inmates. Prior to joining the correctional system, Director Stirling served Governor Nikki Haley as her Chief of Staff from October 2012 to September 2013. As Chief of Staff, he oversaw management of the governor's cabinet and the Office of Executive Policy and Programs. Director Stirling has been an active volunteer in the community, having worked as the Pro Bono CDV Prosecutor during his time with the South Carolina Attorney General's Office. Director Stirling received his Juris Doctor from the University of South Carolina Law School in 1996 and previously received a Bachelor of Arts in Political Science from USC in 1991.

Bernie Warner has over 34 years of experience in both juvenile and adult corrections. In 2011, Mr. Warner was appointed the Secretary of the Washington State Department of Corrections. As Secretary, Mr. Warner leads an agency of 8,000 employees responsible for over 35,000 offenders in 12 prisons, 15 work releases, and 123 community offices. Mr. Warner has held executive corrections positions in Arizona, Florida, and California, where he served as Director of the juvenile justice system. Secretary Warner has focused on comprehensive system reform based on an evidence-based model of risk, need, and responsivity. Secretary Warner is leading innovative initiatives to include the reengineering of community corrections, the first statewide implementation of the HOPE model, blending swift and certain sanctions with community-based cognitive behavioral interventions; a "mission focused" response to offenders in restrictive programs, significantly reducing the number of inmates in segregation; the piloting of a prison based "cease-fire" model as a strategy to manage serious gang behavior; and a gender responsive strategy to ensure appropriate services for incarcerated women.

Heidi E. Washington was appointed Governor Rick Snyder as the director of the Michigan Department of Corrections in May 2015. Her appointment was effective July 1, 2015, and as director, she is responsible for overseeing the administration of Michigan's correctional system, which includes the state's prisons, probation and parole supervision, the Parole Board, and other administrative functions, in addition to managing a \$1.9 billion budget. Director Washington is a 17-year veteran of the Department of Corrections and has served in a number of leadership positions during her career with the department. Prior to her appointment as director, she was warden of the Charles E. Egeler Reception and Guidance Center and the Duane L. Waters Health Center. She also held positions as warden of Robert Scott Correctional Facility and administrative assistant to the department's executive bureau and director, where she provided oversight for the Legislative Affairs Office and represented the MDOC before the Legislature. She has additionally served as acting assistant deputy director, overseeing the 19 prison facilities in the southern region of the state, and acting operations administrator for the Correctional Facilities Administration. She joined the MDOC in 1998 as a legislative assistant after working for the legislature for several years. Director Washington holds a Bachelor of Arts degree in political science from Michigan State University and a law degree from Thomas M. Cooley Law School.

Facilitators

Brian Fischer spent over forty-four years in the field of corrections, becoming the Commissioner of the New York State Department of Corrections in 2007, and retiring in 2013. While Commissioner, he consolidated the Division of State Parole and the Department of Corrections into the now existing Department of Corrections and Community Supervision and coordinated the downsizing of the agency by closing prison farms, annexes, camps and several medium security prisons. During his tenure as Commissioner, Mr. Fischer implemented the Sex Offender Management Treatment Act passed into law by former Governor Spitzer and a settlement to a class action lawsuit filed by Disabilities Advocates, Inc., a state-sponsored agency authorized to protect individuals with mental and developmental disorders that required changes in how such persons were treated while in prison. While Commissioner, he also created short-term Parole Violator Treatment Centers in order to reduce the number of technical parole violators being returned to prison for long periods of time. Mr. Fischer currently sits on the board of three non-profit prisoner advocacy agencies; Hudson Link For Higher Education that provides college degree programs in State prisons, the Osborne Association that provides for in-prison and re-entry services to both jail and prison individuals, and Puppies Behind Bars that has prisoners train special service dogs for wounded veterans. Mr. Fischer has been an adjunct professor at both John Jay College of Criminal Justice and Pace University. He was a member of the Standards Committee of the American Correctional Association and the New York State Sentencing Commission. He holds a Bachelor's Degree in Psychology, a Master's Degree in Guidance and Counseling and a Master's Degree in Professional Studies.

Andie Moss is founder and President of The Moss Group, Inc., with over 30 years of experience working on sensitive correctional management issues. She has worked with all levels of state, local and federal officials in management assessment, program development and juvenile and adult operations. Andie serves as an advisor to federal and state policymakers and is a former president of the Association of Women Executives in Corrections. She also provided expertise to the National Prison Rape Review Panel and the National Prison Rape Elimination Commission. She has been recognized for her pioneering work in sexual safety and addressing institutional culture. Andie is a partner with the National PREA Resource Center and the National Resource Center for Justice Involved Women. As best practices are sought amid the national dialogue on restrictive housing, Andie encourages distinguishing the patterns of behavior seen in gender differences and adult and juvenile populations.

Michael B. Mushlin teaches Civil Procedure, Evidence, and Prisoners' Rights at Pace University School of Law. He is the author of book chapters, and articles on a variety of subjects involving evidence, federal jurisdiction, civil procedure, children's rights, and prisoners' rights that have appeared in journals such as the Yale Law and Policy Review, UCLA Law Review, Harvard Civil Rights Civil Liberties Law Review, The Journal of Legal Education, Brooklyn Law Review, and the Fordham Urban Law Journal. Professor Mushlin was selected to be a member of the Executive Committee of the New York City Bar, and was elected Secretary of the Executive Committee. He is Vice Chair of the Correctional Association of New York, and was a member of the Task Force on the Legal Status of Prisoners of the American Bar Association. He served as co-chair of the Subcommittee on Implementation of the ABA Resolution on Prison Oversight. He is a member of the New York Advisory Committee on Criminal Law and Procedure of the Office of Court Administration. Professor Mushlin is the former Associate Dean for Academic Affairs, Chair of the Committee on Corrections of the New York City Bar, and former Chair of the Board of the Correctional Association and the Osborne Association. He is a member of the Editorial Board of the Correctional Law Reporter. Professor Mushlin also served on the boards of Children's Rights Inc. and Pace Law School's John Jay Legal Services Inc. Professor Mushlin practiced as a public interest and civil rights lawyer for 15 years as staff attorney with Harlem Assertion of Rights, Inc., as staff attorney and Project Director of the Prisoners' Rights Project of the Legal Aid Society, and as Associate Director of the Children's Rights Project of the American Civil Liberties Union.

APPENDIX B

Reduction of Segregation in Washington State

Presented by:

Bernie Warner, Secretary of Corrections, State of Washington

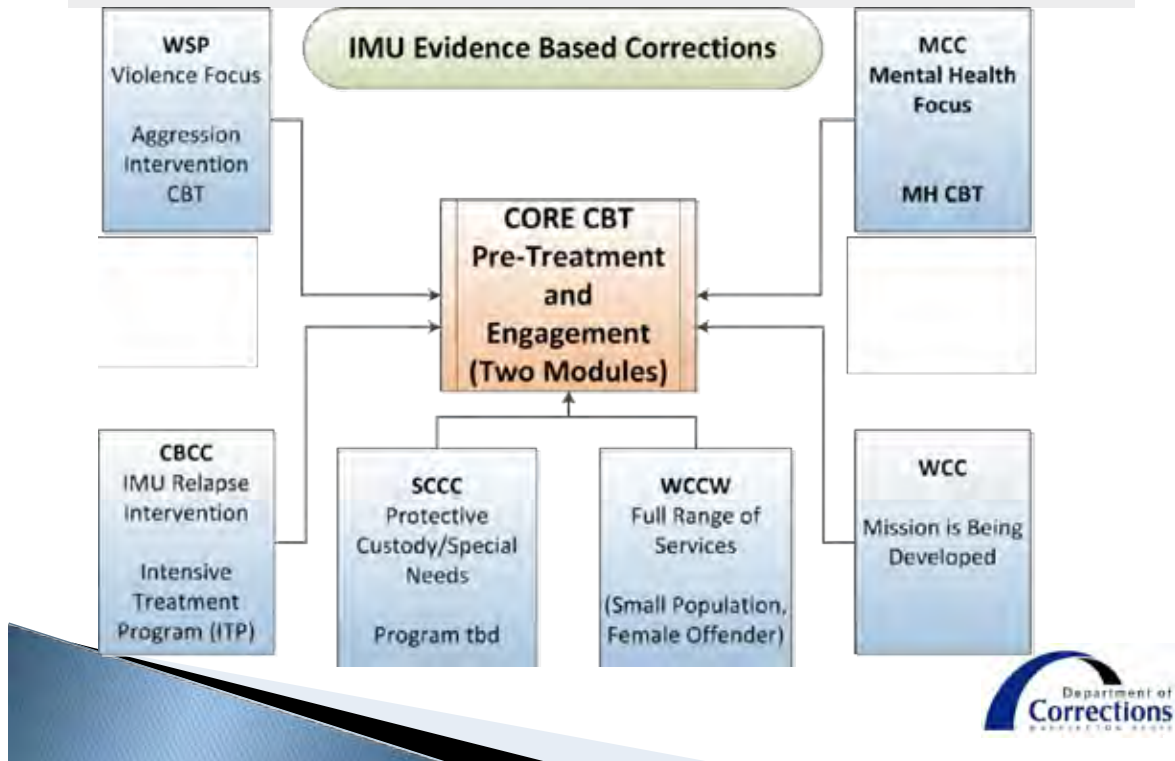
Restricted Housing



Changes to solitary housing

FROM		TO
Suppression and containment	➔	Intensive programming
Use as punishment	➔	Use as a management tool when they cannot be safely managed in population
Managing different types of prisoners the same	➔	Mission-specific housing to target risk, need, responsivity
IMS structured as a time-driven system	➔	Behavior change through programming and congregate activity

Missioned Housing



Washington State Penitentiary (WSP)

▶ Motivating Offender Change (MOC) Program

- Targets Security Threat Group (STG/Gang) prisoners
- General population STG units co-located at WSP
- Anger Control Training
- Four phases of behavior change and development
- Incremental reinforcers to encourage behavior change



Monroe Correctional Complex (MCC)

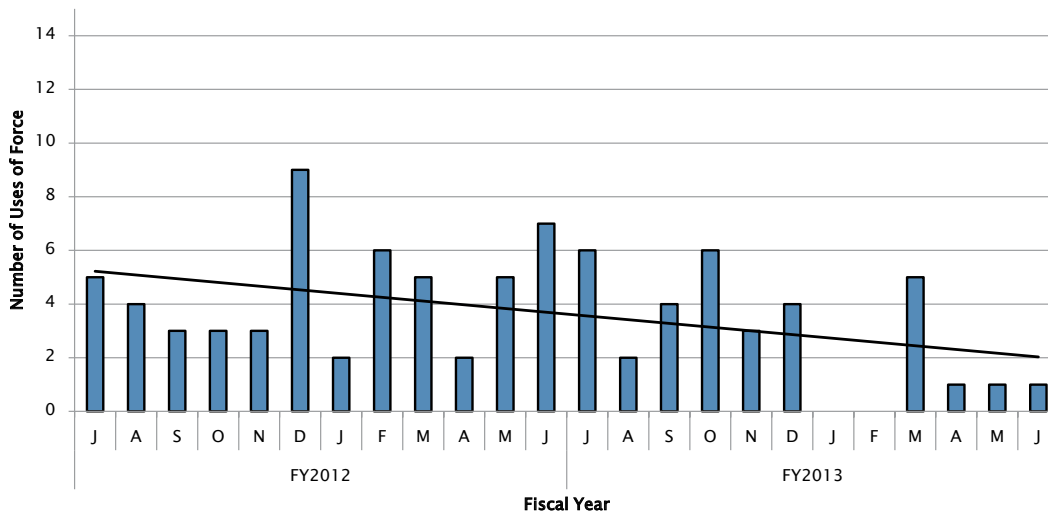
▶ Reintegration and Regression Programming (RAPP)

- Targets mentally ill prisoners
- Co-location of Intensive Treatment Unit, mental health facility at MCC
- Cognitive Behavior Therapy
- One mental health professional per 50 prisoners
- Individualized Treatment/ Behavior Management Plan



Use of Force Incidents in WSP – IMU Have Decreased

Number of Uses of Force over Fiscal Year in WSP – IMU



Clallam Bay Corrections Center (CBCC)

▶ Intensive Transition Program (ITP)

- Targets chronic IMU recidivists
- Provides prisoners pro-social skills to successfully live in general population
- Includes mixed cognitive-behavioral therapy curriculum with phases and congregate activity

▶ 80% success rate

- Of the 131 program graduates ITP; 107 have not returned



Organizational culture change

▶ Give staff professional development tools

- Core Correctional Practices
- Motivational interviewing

▶ Engage staff in the change process

- Encourage interaction between prisoners and staff through physical setting and interactive tools
- Having staff build programs, set up classroom, etc.



















APPENDIX C

Reforms for Youth at Rikers Island in New York City

Presented by:
Joseph Ponte, Commissioner of Correction, City of New York

The 14 point antiviolence reform agenda will improve DOC

Supporting the Culture Change at Rikers	
Reducing Violence	
 Keep weapons and drugs out of Rikers	 Improve leadership development and culture
 Create an integrated classification and housing strategy	 Redefine Investigations Division
 Comprehensive security camera coverage	 Design a recruitment, hiring, and staff selection plan
 Design effective inmate education opportunities and services	 Design a staff performance management plan
 Redefine First Line Incident Response	 Implement operational performance metrics and analysis
	 Create a well-defined supply distribution process
	 Improve custody management processes
	 Expand targeted training
	 Raise Facilities to a state of good repair
 Implement immediate improvements	 Improve internal & external communications



The Ending of Punitive Segregation for 16-17 year-olds

October 1, 2014

- 50 adolescents in Punitive Segregation (25 in RHU + 25 in regular P-Seg)
- 257 in custody
- 1,477 days owed total

December 31, 2014

- 0 adolescents in Punitive Segregation
- 176 in custody

January/February 2015

- 0 days owed

September 29, 2015

- 0 adolescents in Punitive Segregation
- 205 in custody



CAPS - Clinical Alternative to Punitive Segregation

- Specialized mental health treatment of seriously ill inmates who have committed violence.
- DOC established CAPS in 2013 (Opened Oct 17, 2013, CAPS began with 4 inmates at AMKC)
- CAPS has 30 inmates (September 28, 2015)
- The Use of Force in CAPS was 40% lower than the rate on Restricted Housing Unit (RHU) during the first 6 months of 2015



PACE (Program to Accelerate Clinical Effectiveness)

- Non-punitive model
- Created in January 2015 to build on the CAPS.
- 57 inmates (September 28, 2015)
- Designed to encourage adherence to treatment.
- Continuity of care and a team-based approach.



Commissioner Joseph Ponte at the New York City Department of Correction

April 2014

- Commissioner Ponte Appointment

Summer 2014

- CAPS Program Expansion

December 2014

- Punitive Segregation for Adolescent Inmates ends

January / February 2015

- Enhanced Supervision Housing Created
- Elimination of Time Owed

April to July 2015

- PACE Units 1 & 2 Open

September 2015

- DOC Punitive Segregation Population declines
2/3

February 2016

- Punitive Segregation for Young Adult Inmates to
End

APPENDIX D

Removal of the Seriously Mentally Ill from Administrative Segregation in Colorado

Presented by:

Rick Raemisch, Executive Director, Colorado Department of Corrections



COLORADO
Department of Corrections

Rick Raemisch
Executive Director

Residential Treatment Programs



COLORADO
Department of Corrections

Residential Treatment Program

Purpose: To provide a treatment program with incentive level systems for offenders with mental illness and/or intellectual and developmental disabilities, and criteria for movement/transition for RTP offenders.

Deter offenders being placed into Restrictive Housing for behaviors that are directly related to their mental illness.



COLORADO
Department of Corrections

Residential Treatment Programming

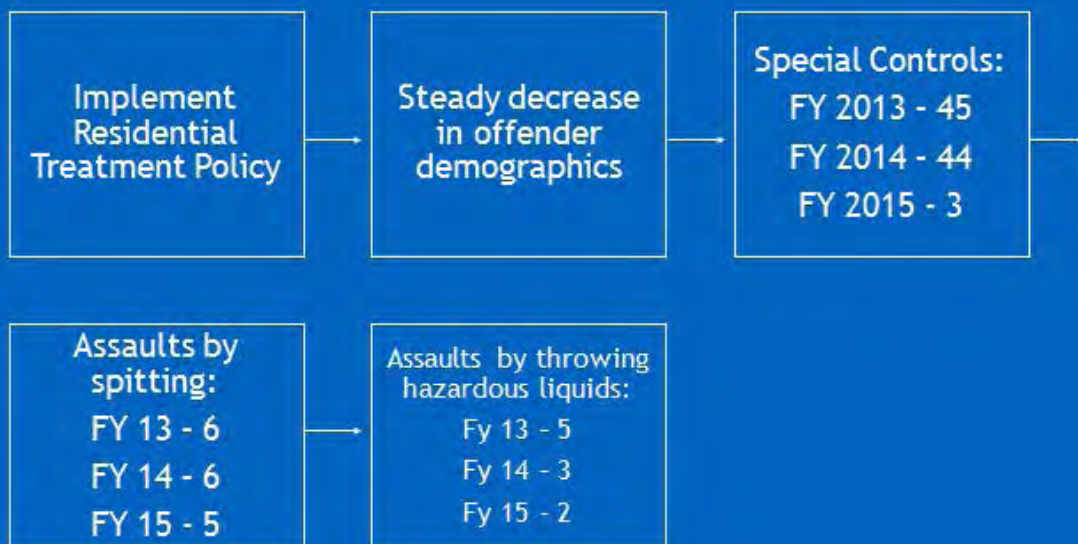
Colorado has 3 Residential Treatment Programs:

255 Bed Acute Needs Facility for males
240 bed Chronic/long term Facility for males
48 bed acute/chronic unit for females



COLORADO
Department of Corrections

San Carlos Correctional Facility Residential Treatment Program



UNITED NATIONS
Rule 82(2).

“Prisoners who suffer from other mental diseases or abnormalities shall be observed and treated in specialized institutions under medical management”

COLORADO DEPARTMENT OF CORRECTIONS
AR 650-04

It is the policy of the Department of Corrections to offer specialized programs to offenders with mental illness and/or intellectual and developmental disabilities.



COLORADO
Department of Corrections



COLORADO
Department of Corrections

UNITED NATIONS RECOMMENDATION

“Restrict the criteria in determining whether a person can be sent to isolated confinement or an alternative therapeutic confinement setting to the most serious acts”

“Indefinite solitary confinement should be abolished”

COLORADO DEPARTMENT OF CORRECTIONS

AR 650-03

It is the policy of the Department of Corrections (DOC) to establish and provide effective restrictive housing management procedures for offenders who have demonstrated through their behavior that they pose a significant risk to the safety and security of staff and other offenders, as well as to the safe and orderly operation of general population. The use of Restrictive Housing, to include Maximum Security Status is an offender management process requiring specific action and review for placement and/or progression.



COLORADO
Department of Corrections

May 2011:

1,484

**Administrative Segregation
Offenders**



COLORADO
Department of Corrections

BY OPENING THE DOOR... YOU OPEN OPPORTUNITIES



COLORADO
Department of Corrections

What is next for the Colorado DOC?

2015 -

Colorado is working on evolution of policy to address female sanctions.

Installing restraint tables in restrictive housing for out of cell programming to offenders serving long term sanctions

Development of alternative and immediate sanctions versus referral to Restrictive housing

Visitation technology for those in restrictive housing



COLORADO
Department of Corrections

The result of Colorado's Restrictive Housing reforms is an empty maximum security prison.



COLORADO
Department of Corrections



COLORADO
Department of Corrections

ENDNOTES

1. Beck, A.J. Department of Justice. Bureau of Justice Statistics. (Oct. 2015). *Use of Restrictive Housing in U.S. Prisons and Jails, 2011-2012*. See also Carson, E.A. Department of Justice. Bureau of Justice Statistics. (Sept. 2015). *Prisoners In 2014*, and Milton, T. & Zeng, Z. (June 2015). Department of Justice. Bureau of Justice Statistics. *Jail Inmates at Midyear 2014*.
2. *In re Medley*, 134 U.S. 160, 168 (1890) (“[Prisoners subject to solitary confinement] 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.”). See also Editors. (2013). Solitary Confinement is Cruel and Ineffective. *Scientific American* 309(2), available at <http://www.scientificamerican.com/article/solitary-confinement-cruel-ineffective-unusual/>.
3. See, e.g., Reiter, K. (2010). Parole, snitch, or die: California’s supermax prisons and prisoners, 1997-2007. *Punishment & Society* 14(5):530-563. O’Keefe, M. (2005). *Analysis of Colorado’s Administrative Segregation*. Colorado Department of Corrections: Office of Planning & Development 25.
4. See, e.g., Hammel, P. (2015, Nov. 7). Prison officials target solitary confinement, mental health treatment in effort to avoid another Nikko Jenkins. *Omaha World-Herald*. Available at http://www.omaha.com/news/legislature/prison-officials-target-solitary-confinement-mental-health-treatment-in-effort/article_361583dd-f22d-5ec6-89b3-d4242b0d7782.html.
5. Mohr, G. & Raemisch, R. (2015). Restrictive housing: Taking the lead. *Corrections Today*, available at http://www.aca.org/ACA_PROD_IMIS/Docs/Corrections%20Today/2015%20Articles/March%202015/Guest%20Editorial.pdf. See also Association of State Correctional Administrators. (2013). *Resolution #24 Restrictive Status Housing Policy Guidelines, adopted Sept. 2, 2013*.
6. The meeting was, by agreement of all participants, subject to the “Chatham House Rule,” which states, “When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.” See more at <http://www.chathamhouse.org/about/chatham-house-rule#sthash.NhS71S3u.dpuf>.
7. The Mandela Rules state: “For the purpose of these rules, solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged solitary confinement shall refer to solitary confinement for a time period in excess of 15 consecutive days.” United Nations. Commission on Crime Prevention and Criminal Justice. *Standard Minimum Rules for the Treatment of Prisoners*, proposed rules. Twenty-fourth session Vienna, 18-22 May 2015.

8. See, e.g., Presentations of Bernie Warner, Joseph Ponte, and Rick Raemisch, at Appendices A-C, *infra*.
9. Labrecque, R.M. (2015). *The Effect of Solitary Confinement on Institutional Misconduct: A Longitudinal Evaluation* (Unpublished doctoral dissertation). University of Cincinnati, Division of Research and Advanced Studies, Cincinnati, OH.
10. Beijersbergen, K., Dirkzwager, A. & Nieuwbeerta, P. (2015). Reoffending after release: Does procedural justice during imprisonment matter? *Criminal Justice and Behavior*. doi: 10.1177/0093854815609643.
11. For example, one participant, a corrections administrator, observed that despite closing 15 administrative segregation and Special Housing Units (SHU) and converting them to general population usage, which will result in a savings of about 250 staff (an average of 16 staff per unit), state budget officials were refusing to allow the corrections department to reinvest the savings into better operations.
12. James, D.J. and Glaze, L.E. (Dec. 2006). Department of Justice. Bureau of Justice Statistics. *Mental Health Problems of Prison and Jail Inmates*.
13. Hannibal Lecter (born 1933) was a serial killer notorious for his habit of consuming his victims, which earned him the nickname "Hannibal the Cannibal." See http://hannibal.wikia.com/wiki/Hannibal_Lecter.
14. This programming method is sometimes referred to as "10 and 10," meaning ten hours per week of outside recreation and ten hours per week of therapeutic intervention, averaging about three hours daily.
15. See n.7, *supra*.
16. As to the seriously mentally ill category, some believed that SMI may provide both too broad and too narrow a description. Some SMI may not be vulnerable; still others may not meet specific diagnosis standards, yet require protection. Participants emphasized the importance of personalized and individual treatment plans to manage specific needs rather than focusing on a diagnosis. *The Diagnostic and Statistical Manual of Mental Disorders* (DSM), published by the American Psychiatric Association (APA), offers a common language and standard criteria for the classification of mental disorders. The DSM is now in its fifth edition, DSM-5, published on May 18, 2013. The old DSM, AXIS I, and AXIS II diagnoses related to depression, bipolar disorder, and other functional impairments that define serious mental illness is currently in litigation. The latest version of the DSM, however, has moved away from a pure diagnostic approach to a functional approach to mental illness identification and treatment.
17. Although LGBT individuals were included as a potential vulnerable population, Group 3 did not come to a consensus for this group and, ultimately, removed the LGBT category from its list of vulnerable populations.
18. See n.14, *supra*.

19. American Psychiatric Association. (2012). *Position Statement on Segregation of Prisoners with Mental Illness*.
20. Vulnerable individuals are those people who are so susceptible to the harms of 22-hour lockdown that regardless of their behavior they should have additional limitations on the imposition of solitary confinement. Significantly Vulnerable Individuals who are at high risk of harm in solitary:
 - SMI (serious mental illness)
 - Intellectual disabilities
 - Serious cognitive impairments
 - Juveniles
 - Infirm (elderly without specific age)
 - Pregnant women
21. Institute of Medicine (US) Committee to Improve the National Institutes of Health Consensus Development Program. *Consensus Development at the NIH: Improving the Program*. Washington (DC): National Academies Press (US); 1990. Available from: <http://www.ncbi.nlm.nih.gov/books/NBK235517/>
22. Baumgartel, S., Guilmette, C., Kalb, J., et al. (2015). *Time in Cell: the ASCA-Liman 2014 National Survey of Administrative Segregation in Prison*. New Haven: Liman Center, Yale Law School, available at <http://nicic.gov/library/030161>.

