

**Testimony of  
Rev. Allie Perry, President,  
Rev. Laura Markle Downton, Director of U.S. Prisons Policy and Program,  
National Religious Campaign Against Torture,  
Before the  
Connecticut Judiciary Committee Hearing Regarding  
HB 7302 "An Act Concerning Isolated Confinement and Correctional Staff  
Training and Wellness"  
March 27, 2017**

**NRCAT Position: Support**

Thank you for this opportunity to submit testimony on behalf of the National Religious Campaign Against Torture (NRCAT) in support of HB 7302 "An Act Concerning Isolated Confinement and Correctional Staff Training and Wellness." With the introduction of HB 7302, Connecticut is poised to join a growing number of states confronting the immoral practice of isolated confinement in its prisons and embracing restorative alternatives.

The National Religious Campaign Against Torture is a coalition of religious organizations committed to ending torture in U.S. policy, practice and culture. Since its formation in January 2006, more than 300 religious organizations have joined NRCAT, including national denominational and religious bodies, state ecumenical and interfaith agencies, and local religious organizations and congregations representing the Unitarian Universalist, Jewish, Sikh, Hindu, Bahá'í, Muslim, evangelical Christian, Roman Catholic, Orthodox Christian, mainline Protestant, Quaker and Buddhist traditions. In 2010 the board expanded NRCAT's mission to include ending torture in U.S. prisons, with a focus on ending prolonged solitary confinement – a practice known to have devastating psychological and neurological effects according to medical and mental health professionals and considered a form of torture by the United Nations and other developed countries.

Solitary confinement is referred to by many names including "administrative segregation," "segregated housing," "restrictive housing," "isolated confinement," and others. Regardless of the name, solitary refers to the practice of confining an incarcerated person in a cell, alone or with another person, for twenty or more hours per day with little meaningful human contact or interaction and limited access to rehabilitative services, adequate health treatment, and other necessities.<sup>1</sup> On any given day in the U.S., it is estimated that 80,000 to 100,000 incarcerated people are held in conditions of solitary

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<sup>1</sup> Sal Rodriguez. (2012) "FAQ," [www.solitarywatch.com](http://www.solitarywatch.com).

confinement.<sup>2</sup> That number does not include people in local jails, juvenile facilities, or in military and immigration detention. Isolation destroys people and serves no rehabilitative purpose. For people of faith and conscience, isolated confinement is an affront to values of inherent human dignity. Churches, synagogues, mosques and temples are the first responders to the damage wrought by the practice of prolonged isolation. What happens to those who are imprisoned in our state impacts all of us, as a vast majority of those who are incarcerated will one day return to our communities.

For many years, faith leaders have been calling for an end to the use of prolonged solitary confinement. This call is now supported by a diverse group including heads of state departments of correction, state legislators, members of Congress, the United Nations, and Supreme Court Justices. Leann K. Bertsch, President of the Association of State Correctional Administrators has observed that “prison systems are motivated to reduce the use of isolation in prisons and are actively putting into place policies designed to reduce the use of restrictive housing.” According to Bertsch, “restricted housing places substantial stress on both the staff working in those settings as well as the prisoners housed in those units. Our highest priority is to operate institutions that are safe for staff and inmates and to keep communities to which prisoners will return safe.”<sup>3</sup>

A groundswell of public support for humane alternatives to solitary confinement in recent years has led to notable administrative and legislative reforms resulting in decreases in the use of isolation, increases in correctional staff wellness, and improved outcomes for incarcerated people. Under Commissioner Scott Semple, the Connecticut Department of Corrections has significantly limited its use of isolation. During this time, staff assaults, inmate assaults, use-of-force incidents, and suicide attempts have all decreased.<sup>4</sup> Similar results have been reported in other jurisdictions. In 2015, the Colorado Department of Corrections (CDC) published a report entitled *Open the Door – Segregation Reforms in Colorado*, outlining dramatic reductions in the use of restrictive housing in the state. The CDC’s administrative segregation and restrictive housing population decreased from more than 1,500 incarcerated persons, or 7% of the CDC population in 2011, to approximately 160 incarcerated persons in restrictive housing. These reductions are the result of legislative and administrative reforms including the development and expansion of residential treatment facilities, reviews resulting in the transition of more than 700 incarcerated people from isolation to the general population, the transition of individuals with serious mental illness, youthful offenders and women out of isolation, and an end to releasing incarcerated persons from restrictive housing directly to the community. As a result, the CDC reported that there “were no suicides in Restrictive Housing in the last year,” and the “rate of assaults on staff, across the agency, are half of what they were in 2006.”<sup>5</sup>

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<sup>2</sup> *Time-In-Cell: The ASCA-Liman 2014 National Survey of Administrative Segregation in Prison*. The Liman Program, Yale Law School and Association of State Correctional Administrators August 2015. Source:

[https://www.law.yale.edu/system/files/area/center/liman/document/asca-liman\\_administrativesegregationreport.pdf](https://www.law.yale.edu/system/files/area/center/liman/document/asca-liman_administrativesegregationreport.pdf)

<sup>3</sup> “ASCA, Liman Program Release New Report on Restrictive Housing,” November 2016. Source: <https://law.yale.edu/yls-today/news/asca-liman-program-release-new-report-restrictive-housing>

<sup>4</sup> CT DOC Incidents Report, FY 2015-16: <http://www.ct.gov/doc/lib/doc/PDF/PDFReport/Incidents2016.pdf>

<sup>5</sup> Raemisch, R. and Kellie Wasko. (2015) *Open the Door- Segregation Reforms in Colorado*. Source: <https://www.colorado.gov/pacific/cdoc/news/open-door-segregation-reforms-colorado>

Significant reductions in restrictive housing have also been achieved in recent years in California where, from 2011 to 2013, a series of prisoner-led hunger strikes to protest prolonged and indefinite solitary confinement garnered the attention of California state legislators, the media, and national and international audiences. Following the historic *Ashker vs. Brown* legal settlement in California, the numbers of people in solitary confinement have dropped dramatically. According to the California Department of Corrections and Rehabilitation (CDCR), in December 2013, there were 10,072 people in long-term isolation in California (3,799 in SHU and 6,273 in ad seg). As of January 2017, there were 3,018 people in long-term isolation in California (496 in SHU and 2,522 in ad seg).

In 2014 more state legislatures passed solitary confinement reforms than in the sixteen years prior.<sup>6</sup> As this trend continued, in September 2016, California Governor Jerry Brown signed legislation co-sponsored by NRCAT, to protect youth from placement in long-term isolation in California's juvenile facilities. In New Jersey in October 2016, *The Isolated Confinement Restriction Act*, which would replace prolonged isolation with therapeutic interventions, passed its final vote in the New Jersey Assembly, passing both houses in the state legislature and advancing further than any other progressive legislation on solitary confinement of its kind. Despite a veto of the bill by Governor Christie, a diverse statewide network is poised to support reintroduction of the legislation. In New York, the statewide Campaign for Alternatives to Isolated Confinement (NY-CAIC) continues to garner additional co-sponsors for legislation to end prolonged isolation, the *Humane Alternatives to Long-Term (HALT) Solitary Confinement Act*. In Nevada, following the January 2017 release of a report entitled *Unlocking Solitary Confinement: Ending Extreme Isolation in Nevada State Prisons*, Nevada Governor Brian Sandoval announced that he had instructed new corrections director, James Dzurenda, to address the issue of solitary in state prisons. Similar efforts to promote administrative and legislative reforms to reduce and ultimately end prolonged isolation are advancing in a growing number of jurisdictions nationwide.

The demonstrated success of reducing the use of solitary confinement is evident among several states that have proven that not only are there safe alternatives, but there are more cost-effective options. In Connecticut, housing an incarcerated person in solitary confinement costs an average of twice as much as housing an incarcerated person in general population.<sup>7</sup> The annual costs of incarcerating one person in Connecticut is \$50,262. The annual costs of incarcerating one person at Northern, a supermax in Somers with solitary confinement cells, is \$100,385.<sup>8</sup> Mississippi reportedly saved more than \$5 million by closing its supermax unit.<sup>9</sup> The Colorado Department of Corrections' closure of its super-max unit, Centennial Correctional Facility in 2013, resulted in savings of \$4.5 million.<sup>10</sup>

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<sup>6</sup> Hager, E. and Gerald Rich. (2014) "Shifting Away from Solitary," *The Marshall Project*. Source: <https://www.themarshallproject.org/2014/12/23/shifting-away-from-solitary#.PFEF1xGXh>

<sup>7</sup> Sal Rodriguez, *Solitary Watch* Fact Sheet: The High Cost of Solitary Confinement 1 (2012).

<sup>8</sup> Warner, K. (2016) "Connecticut has one of the highest costs per prisoner," *CT Post; The Worst of the Worst* (2013), <http://yalevisuallawproject.org/film/the-worst-of-the-worst/>

<sup>9</sup> Erica Goode, *Prisons Rethink Isolation: Saving Money, Lives and Sanity*, NEW YORK TIMES, March 10, 2012, <http://www.nytimes.com/2012/03/11/us/rethinking-solitary-confinement.html>

<sup>10</sup> Kristen Wyatt, *Colorado Closing Canon City Prison*, *The Gazette*, March 19, 2011, <http://www.gazette.com/articles/colorado->

Underscoring a growing national consensus that long-term solitary confinement must be confronted, in 2015 then President Obama became the first U.S. President to address the use of solitary confinement, publicly announcing at the NAACP National Convention that the White House had instructed the U.S. Attorney General to conduct a nationwide review of the use of solitary. In January 2016, the Department of Justice released its *Report and Recommendations Concerning the Use of Restrictive Housing*. Calling solitary "an affront to our common humanity," in a *Washington Post* op-ed, President Obama announced adoption of the more than fifty "Guiding Principles" contained within the report, setting new standards in federal prisons and providing guidelines for all prisons and jails nationwide. The Department of Justice *Report and Recommendations Concerning the Use of Restrictive Housing* offers historic and comprehensive guidelines on the use of solitary confinement in United States prisons.

The torture of prolonged solitary confinement in U.S. prisons has moral and international human rights implications. The United Nations Convention Against Torture and Cruel, Inhuman or Degrading Treatment was adopted by the UN General Assembly in 1984, was signed by the United States in 1988 and ratified by the U.S. in 1994. It defines torture as any act by which,

. . . severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.<sup>11</sup>

In a 2011 report, then United Nations Special Rapporteur on Torture, Juan Méndez, cited 15 days or more of solitary confinement as "prolonged solitary confinement," noting that the psychological effects caused by isolation may become irreversible at that point.<sup>12</sup> His report called for a prohibition against long-term isolation and a ban on the use of solitary confinement for those most vulnerable to its effects. Building upon these findings, in 2015, the revised *United Nations Standard Minimum Rules for the Treatment of Prisoners*, known as the "Nelson Mandela Rules," were adopted by the UN General Assembly. The Mandela Rules prohibit prolonged isolation beyond fifteen days in all circumstances and ban its use for those who are most vulnerable, including individuals with mental disability and youth.

Supreme Court Justices Stephen Breyer and Anthony Kennedy have both noted the human toll of solitary confinement and have indicated a desire for the Supreme Court

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<sup>11</sup> Convention Against Torture and Other Cruel, Inhuman, and Degrading Treatment or Punishment, art. 1(1), Dec. 10 1984, 1465 U.N.T.S. 85.

<sup>12</sup> The Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman, and degrading treatment or punishment, *Interim Report*, ¶ 15, delivered to the General Assembly, U.N. Doc. A/66/268 (Aug. 5, 2011).

to eventually have an opportunity to fully consider the constitutionality of solitary confinement.<sup>13</sup> In 2011 the United States Supreme Court stated that “[p]risoners retain the essence of human dignity inherent in all persons. Respect for that dignity animates the Eighth Amendment prohibition against cruel and unusual punishment.”<sup>14</sup> United States case law dating as early as 1890 has specifically recognized solitary confinement’s clear harm<sup>15</sup> and, in certain circumstances, has declared the practice as a violation of the Eighth Amendment.<sup>16</sup>

In 1890, the U.S. Supreme Court ruled the use of solitary confinement was “cruel and unusual punishment,” stating that

A considerable number of prisoners fell, after even 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. (United States Supreme Court Center, 1890)

Ultimately the 1890 U.S. Supreme Court ruling concluded that “isolation was so harmful that a person who had murdered and was sentenced to die should be freed and escape his death sentence because the additional burden of one month's incarceration in solitary confinement was so onerous as to demand redress.”<sup>17</sup>

The National Religious Campaign Against Torture believes strongly that the human cost of solitary confinement is immeasurable and the moral cost, far too high. Therefore, we urge your support for HB 7302 "An Act Concerning Isolated Confinement and Correctional Staff Training and Wellness" to advance humane alternatives to isolation in Connecticut.

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<sup>13</sup> Manson, Joshua and Jean Casella, “Solitary Confinement Gets Another Sharp Rebuke from a Supreme Court Justice,” March 20, 2017. Source: <http://solitarywatch.com/2017/03/20/solitary-confinement-gets-another-sharp-rebuke-from-a-supreme-court-justice/>

<sup>14</sup> *Brown v. Plata*, 131 S.Ct. 1910 (2011).

<sup>15</sup> See *In re Medley*, 134 U.S. 160, 168 (1890) (noting that prisoners held in isolation became violently insane and suffered some irreparable mental damage).

<sup>16</sup> See, e.g., *Jones'El v. Berge*, 164 F. Supp. 2d 1096 (W.D. Wis. 2001) (finding that placing mentally ill prisoners in solitary confinement constitutes an Eighth Amendment violation); *Madrid v. Gomez*, 889 F. Supp. 1146, 1265 (N.D. Cal. 1995) (equating placing mentally-ill inmates in solitary confinement to placing asthmatics in a room with insufficient air); *Ruiz v. Johnson*, 37 F. Supp. 2d 855, 915 (S.D. Tex. 1999).

<sup>17</sup> Kerness, Bonnie and Jamie Bissonette Lewey (2014) “Race and the Politics of Isolation in U.S. Prisons,” *Atlantic Journal of Communication*, 22:1, 26.