



Solitary Confinement Press Statement, August 6, 2015

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This morning the Community Legal Aid Society, Inc. filed suit in Federal Court to stop cruel and unconstitutional punishments from being imposed in Delaware on prisoners who have been diagnosed with serious mental illnesses.

As you will hear in a few minutes from the legal aid society's executive director, Dan Atkins, many seriously ill people are imprisoned in Delaware under unconscionable circumstances, for extended periods of time. This has continued although the recognition of the harm caused by the use of solitary confinement – to prisoners and the public – is well known.

Supreme Court Justice Anthony Kennedy recently observed that the “human toll wrought by extended terms of isolation” has been known since the Eighteenth Century. One hundred twenty-five years ago, the Supreme Court noted that after a stay in solitary confinement some prisoners “became violently insane; others, still committed suicide.”

Two weeks ago President Obama asked, “Do we really think it makes sense to lock so many people alone in tiny cells for 23 hours a day, sometimes for months or even years at a time? That is not going to make us safer. That's not going to make us stronger. And if those individuals are ultimately released, how are they ever going to adapt? It's not smart.”

The Colorado Commissioner of Correction, Rick Raemish, has written: “If we can't eliminate solitary confinement, at least we can strive to greatly reduce its use. Knowing that 97 percent of inmates are ultimately returned to their communities, doing anything less would be both counterproductive and inhumane.”

An article this week on a lawsuit challenging California's use of solitary confinement reported that “Few social scientists question that isolation can have harmful effects. Research over the last half-century has demonstrated that it can worsen mental illness and produce symptoms even in prisoners who start out psychologically robust.”

The devastating effects of conditions of extreme social isolation and environmental deprivation like those in Delaware's solitary confinement units are well known to our Department of Correction. Abundant psychiatric literature documents the severely deleterious effect of isolation on mental health. The National Commission on Correctional Health Care *Standards for Mental Health Services in Correction Facilities* directs that “[i]nmates who are seriously ill should not be confined under conditions of extreme isolation.” Similarly, the American Psychiatric Association's *Position Statement on Segregation of Prisoners with Mental Illness* says prolonged segregation should be avoided for prisoners with serious mental illness due to the potential for harm to such prisoners. It further states that if prisoners with serious mental illnesses are placed in isolation, appropriate clinical supports and out-of-cell time must be provided.

Many states have made changes. For example, Commissioner Raemish was directed by the Governor of Colorado to limit or eliminate the use of solitary confinement for inmates with mental illnesses. The federal court in Indiana required that state's Department of Correction to remedy the problem there. Lawsuits in Massachusetts and Pennsylvania led to settlement agreements requiring very significant changes.

The Delaware Department of Correction knows all this. Yet the practice continues in Delaware. That may be because meeting the constitutional requirements will require substantial expenditures. But, under the Constitution, that is no excuse.

The General Assembly recently arranged for the state to hire an expert to examine Delaware's use of solitary confinement and to make recommendations. No one knows where that will lead. Delaware's continuing failure to make major changes puts lives at risk. As a result, CLASI decided, and the ACLU of Delaware agrees, that suit has to be filed now.

For over a year, we and a team from the national law firm, Pepper Hamilton LLP working with Joanna Cline, have been assisting CLASI in its investigation of the use of solitary confinement on prisoners in Delaware, and the effect of that treatment on those prisoners, who suffer a punishment more severe than a civilized society should tolerate. We are proud to be working with them in filing this lawsuit.