

## Memorandum

**To:** The U.S. Commission on Civil Rights  
**From:** The Connecticut Advisory Committee  
**Date:** May 2, 2017  
**Subject:** Advisory Memorandum Recommending Legislation

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Per its statutory mandate, the U.S. Commission on Civil Rights establishes advisory committees and charges them with collecting and providing information, findings and recommendations about civil rights matters in their states to the Commission. In keeping with these responsibilities, based on reports of discrimination, the Connecticut Advisory Committee held a briefing on February 7, 2017, to examine whether there are racial disparities in the use of solitary confinement in Connecticut correctional facilities. In consideration of the testimony heard at its briefing, the Connecticut Advisory Committee provides the following information and recommendations to the Commission. The Committee recommends that Connecticut enact legislation regarding solitary confinement. This memorandum was adopted unanimously by the Connecticut Advisory Committee on May 2, 2017.

The Committee notes that while it is currently working on a more comprehensive advisory memorandum, which it hopes to release over the summer, it wants to advise the Commission of the positive developments in the General Assembly and its support for this needed legislation in Connecticut.

### **The Connecticut Advisory Committee's Briefing, Background and Initial Findings**

The Connecticut Advisory Committee to the U.S. Commission on Civil Rights (Committee) held a briefing on February 7, 2017, to examine the use of solitary confinement in Connecticut correctional facilities. The Committee convened this briefing because of reports that Blacks and Latinos are overrepresented in solitary confinement and that solitary confinement can be particularly harmful for vulnerable people, such as juveniles, young adults, and people with mental illness and other disabilities. The Committee wanted to learn whether there are disparities in solitary confinement practices and also examine the underlying factors that may contribute to such disparities in the Connecticut correctional system. The Committee heard from the Commissioner of the Department of Correction (DOC), legal and medical experts, advocates, and academics. The Committee also heard presentations from individuals previously incarcerated in Connecticut as well as statements read for the record for individuals currently incarcerated.

The Committee understands that directly following its February 7th briefing, the Connecticut General Assembly's Joint Committee on the Judiciary introduced legislation to define and limit the use of solitary confinement in Connecticut prisons. The proposed legislation would codify procedures concerning the placement of inmates into solitary confinement, provide training for correctional staff, and require greater transparency.

The Committee heard that there is growing attention on the use of solitary confinement and the recognition that Blacks and Latinos are overrepresented in solitary confinement compared to the general prison population. There is also increasing agreement that solitary confinement is harmful and that it can be particularly devastating for vulnerable people, such as juveniles, young adults, and people with mental illness and other disabilities.

During the briefing, the Committee learned that there is no universally accepted definition of solitary confinement. The witnesses who testified before the Committee focused on situations where inmates spend a significant number of hours alone in their cell each day for consecutive weeks or months. The DOC maintains several different classifications of restrictive housing under which a prisoner could experience isolation to a degree that these witnesses considered solitary confinement concerning. However, most of the testimony focused on Connecticut's "administrative segregation" housing designation.

In addition to concerns about the psychological effects of isolation, witnesses also noted that there is an alarming racial disparity in the use of administrative segregation in Connecticut. According to a 2016 report from the Marshall Project, Connecticut is the second worst in the nation for disproportionately placing Black men in solitary confinement.<sup>1</sup> Likewise, Black women represent 27 percent of female inmates yet account for 63 percent of women in solitary confinement.<sup>2</sup>

Under the current DOC leadership, special efforts have been made to decrease the number of inmates in administrative segregation. Overall, these efforts have been successful and, based on testimony heard at this hearing, the percentage of Connecticut inmates in administrative segregation is lower than the percentage of inmates in similar types of restrictive housing in all other states except Hawaii. Witnesses agreed that the DOC's internal policy changes have been a step in the right direction. Notwithstanding these positive policy changes and all-time low incident rates in Connecticut prisons, Connecticut does not have any existing laws regulating or restricting the use of administrative segregation or other forms of restrictive housing that might be considered solitary confinement.

The Committee is encouraged that the General Assembly is considering legislation on this important subject. The Committee recognizes the risk that the internal policies that appear to have contributed to the dramatic decrease in the use of administrative segregation could be reversed or revised in the future. It applauds the General Assembly and encourages its careful consideration of whether and to what extent important policy changes should be codified into law and whether other legal provisions should be enacted to regulate the use of restrictive housing in Connecticut.

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<sup>1</sup> Marshall Project, Anna Flagg, Alex Tatusian, Christie Thompson, Who's in Solitary Confinement? (Nov. 30, 2016), available at <https://www.themarshallproject.org/2016/11/30/a-new-report-gives-the-most-detailed-breakdown-yet-of-how-isolation-is-used-in-u-s-prisons#.tcWErB4N0><https://www.themarshallproject.org/2016/11/30/a-new-report-gives-the-most-detailed-breakdown-yet-of-how-isolation-is-used-in-u-s-prisons#.tcWErB4N0> (last visited May 10, 2017).

<sup>2</sup> The Association of State Correctional Administrators and The Arthur Liman Public Interest Program at Yale Law School, Aiming to Reduce Time-In-Cell: Reports from Correctional Systems on the Numbers of Prisoners in Restricted Housing and on the Potential of Policy Changes to Bring About Reforms (November 2016), available at <https://law.yale.edu/system/files/area/center/liman/document/aimingtoreducetic.pdf><https://law.yale.edu/system/files/area/center/liman/document/aimingtoreducetic.pdf> (last visited May 10, 2017).

**The Committee recommends to the Commission that any law regarding solitary confinement includes the following:**

1. *A clear definition of what constitutes solitary confinement in Connecticut.* Given the widely varying definitions of this term and the significant implications that restrictions on confinement can have on the correctional community, the definition of solitary confinement is a critical first step in formulating a policy that protects inmates and correction officers while allowing prisons to serve their rehabilitative mission for all inmates.

2. *Ban on solitary confinement for all inmates ages 21 and younger.* A large body of scientific research indicates that solitary confinement is particularly damaging to adolescents and young adults because their brains are still developing. Since the use of solitary confinement of young people has potentially devastating and long lasting impacts, the Committee encourages Connecticut to follow the lead of other states and ban solitary confinement, subject to rare exceptions, for any inmate ages 21 and younger.

3. *Ban on the use of solitary confinement for people with mental illness.* Solitary confinement is traumatic for individuals without mental illness, but studies have shown that prolonged isolation in solitary can exacerbate mental illness, be dangerous, and may have tragic consequences. The Committee encourages Connecticut ban solitary confinement, subject to rare exceptions, for mentally ill inmates.

4. *Reporting Requirements.* Given the racial disparity in the use of solitary confinement, reporting should be required including race and ethnicity, age, and gender identity of the inmate; whether the inmate has a disability; length of placement; incident(s) that caused segregation; and who made the decision to place a prisoner into solitary confinement.

5. *Training and Wellness Support for Correction Officers.* There should be sufficient training as well as wellness support for DOC officers on the long and short-term psychological effects of isolation. Officers should also be taught de-escalation techniques particularly for safely managing individuals with mental illness.

The Committee is reviewing the testimony and materials submitted for the record and intends to release a report to the Commission, including additional findings and recommendations, at the conclusion of this project.