



Abolitionist Law Center

Testimony of the Abolitionist Law Center

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Regarding

Ending the use of Solitary Confinement

Good Morning, Thank you members of the PA Senate Democratic Policy Committee for convening this hearing on House Bill 1037 and its legislation to end long term solitary confinement in Pennsylvania. My name is Robert Saleem Holbrook and I am the Executive Director of the Abolitionist Law Center, a law project whose work centers on protecting and advancing the human rights and dignity of all prisoners and ending state violence in all its forms. I am also a founding member of the Human Rights Coalition, an organization founded by prisoners and their loved ones to advocate on behalf of the human rights of prisoners. I am a survivor of solitary confinement, having spent a total of ten years in solitary confinement during my twenty seven years of incarceration.

Solitary confinement reform has eluded Pennsylvania lawmakers for decades. In 2010 the Pennsylvania House Judiciary committee held a hearing similar to the one today about the [abuses prisoners suffered in solitary confinement](#) and the long term trauma and psychological impact it imposes on prisoners subjected to it. At that time I was incarcerated at SCI-Greene and submitted written testimony to the hearing and helped organize it as an inside member of the Human Rights Coalition. That hearing was the result of a decade of advocacy against solitary confinement in Pennsylvania by the Human Rights Coalition. Unfortunately, despite hearing multiple testimonies by survivors of solitary confinement, the state legislature was unable to come up with legislation that would eliminate the use of long term solitary confinement.

House bill 1037 before us today is a culmination of another long decade of organizing and advocacy by the Human Rights Coalition and Abolitionist Law Center against long term solitary confinement. We are here today urging

legislators to exercise their legislative authority and enact the protections in HB1037.

Long term solitary confinement has been a long problem in Pennsylvania and historically the Pennsylvania Department of Corrections has had a free hand in imposing it to the dismay of prisoners, advocates and community while legislators all too often abdicated their legislative oversight authority. Despite long trials of abuses around solitary confinement Pennsylvania DOC bureaucrats were able to cajole and smooth talk their way into convincing legislators that long term solitary confinement was necessary, not harmful and that if any reforms were necessary they would be in the best position to determine what reforms were needed and how they would be implemented. This was the case in 2010 at the previous Policy Hearing. The reality, however, is the opposite. Any changes to the Pennsylvania Department of Corrections' harmful solitary regime came from outside the Department of Corrections and often the Department would have to be dragged into the courtroom to implement humane reforms.

Some recent examples of this are the 2015 settlement between the Pennsylvania Department of Corrections, U.S. Justice Department and the Disabilities Right Network that compelled the Pennsylvania Department of Corrections to enact widespread changes to its use of long term solitary confinement on prisoners with mental disabilities. The settlement was reached after a lawsuit was filed in 2012 by the Disabilities Rights Network in the case of Disability Right Network Pennsylvania v. John Wetzel, Secretary of the PA Department of Corrections. The DOJ investigation found the Pennsylvania DOC in systematic violation of American with Disabilities Act for its use of long term solitary confinement on prisoners with mental health disabilities. The settlement resulted in the DOC agreeing to a complete, statewide overhaul of its policies and practices affecting prisoners with serious mental illness. Among other reforms, the state agreed to stop housing inmates with serious mental illness in the harsh conditions of solitary confinement in the RHU. New treatment units are to be established to provide appropriate mental health treatment. While there will continue to be secure units for some inmates, even those units will provide significant out-of-cell time both for therapeutic and non-therapeutic activities. These new units and the treatment and programming provided in them are aimed at ensuring that inmates with serious mental illness have the least amount of restrictions placed on them as clinically necessary.

While the DOC claims it does not hold the mentally ill in solitary anymore as a result of this settlement this is not true because the majority of the people on their mental health roster are not protected from solitary confinement. According to DOC Secretary John Wetzel, a [quarter](#) of the DOC population are on the mental health roster. The DOC breaks down mental health status as: A, B, C, and D code, with A signifying no mental health status and D signifying the most severe mental health conditions. Within this roster are a class of prisoners classified as c-code cases who have significant mental health issues but who are exempt from the protections of the settlement because the Department of Corrections views them as an intermediate class that drifts in between mental health crisis and mental health stability. However, placing C codes in solitary is actually creating more serious mental health cases among this class because solitary confinement is proven to exacerbate existing mental illness. HB 1037 would protect this class of prisoners from prolonged solitary confinement placement by prohibiting their placement in solitary confinement and more importantly requiring the Department of Corrections to provide secure and healthy housing alternatives to accommodate their mental disabilities.

Shortly after the settlement with the Disability Rights Network, the Department of Corrections was once again forced by the courts to halt its wanton and inhumane use of solitary confinement in two historical lawsuits challenging the use of prolonged solitary confinement. In the first case, [Russell Shoats v. John Wetzel](#), Secretary of the Pennsylvania Department of Corrections, in 2016, the United States District Court in Western Pennsylvania denied the Department's rationale that it possessed a basis for keeping Russel Shoatz in solitary confinement for over 22 years. As a result of the decision, the Department of Corrections released Russell Shoatz to general population, where he remains today, without incident despite the DOC maintaining that if released Mr. Shoatz would be a danger to staff and prisoners.

In the other case, [Arthur Johnson v. John Wetzel](#), in 2017 a United States District Court Judge in the Middle District of Pennsylvania, appointed--I might add--by President George W. Bush, ordered the Department of Corrections to release Arthur Johnson from 38 years of continued solitary confinement into general population. Mr. Johnson remains in general population today, without incident

despite the DOC maintaining for decades that his prolonged solitary confinement was necessary to protect staff and prisoners.

What is striking about the case of Mr. Shoatz and Mr. Johnson is an often overlooked fact that the Department of Correction uses long term solitary confinement to target prisoners that advocate, organize or protest unjust prison and social conditions. It is not a coincidence that many of the prisoners that spent decades in solitary confinement in Pennsylvania throughout the 1970's, 80's, 90's and into the 2000's were former members of the Black Panther Party.

These are just examples of the Department of Corrections being forced to implement solitary confinement reforms or halt harmful solitary confinement practices after the 2010 Pennsylvania Judiciary Committee hearing on solitary confinement when the DOC claimed they could be relied upon to implement solitary confinement reforms. The fact is the Department of Corrections cannot be counted on to implement and more importantly sustain long term solitary confinement reforms. That is a task for the legislature, to enshrine solitary reforms into statutory authority and to exercise its oversight of the Department of Corrections.

Recently, a handful of prisoners engaged in a [hunger strike](#) for over ten days at the SCI Phoenix prison. These men had been moved from long term solitary confinement to a unit named the IMU Intensive Management Unit that they were told was a "step down program," meant to transition them back to general population. However, after four months of being in the IMU, the men still sat in the same conditions of solitary confinement, were provided no written regulations for the unit, and were never told the process for their pathway out of solitary. Had the media not picked up the story of their hunger strike, this so-called "step down" unit would have left these men--some of whom had already been in solitary for decades--to rot in solitary confinement indefinitely. Ultimately, Secretary Wetzel provided a handbook for the unit and reviewed individual cases for transition out of solitary.

The DOC has demonstrated a pattern of finding loopholes to get around ending solitary confinement: changing the name of units without changing the conditions, misdiagnosing mental health statuses so vulnerable people remain in solitary, or creating entirely new solitary units under the guise of a step down program or

safety measure. In reality, leaving it in the hands of the DOC to end solitary has proven to only result in further harm and torturous conditions being inflicted on incarcerated people. These people will eventually come back home to our communities. Leaving them isolated in solitary with no human interaction, no sensory stimulation, no mental health treatment in a concrete box will only return them as broken, more deeply traumatized people, if they make it out at all.

It is time for the legislature to take it into your hands to protect our incarcerated people, prison staff, and communities, and finally end solitary confinement. And if this legislative session fails to pass HB1037, let's make sure that we build up the support so that when the legislature changes power, we will be in a position to pass this important legislation.