

SB 459-Maryland Mandela testimony-UULM-MD-Support-

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Unitarian Universalist Legislative Ministry of Maryland

Testimony in Support of SB 459 - Correctional Services - Restrictive Housing - Limitations (Maryland Mandela Act)

TO: Senator Will Smith, Jr. Chair and Members of the Judicial Proceedings Committee
FROM: Karen "Candy" Clark,
Unitarian Universalist Legislative Ministry of Maryland Criminal Justice Lead
DATE: March 8, 2023

The Unitarian Universalist Legislative Ministry asks for a favorable vote on SB 459 - Correctional Services - Restrictive Housing - Limitations (Maryland Mandela Act). This bill exemplifies our first principle; to honor the worth and dignity of all persons. Restrictive housing has had a long history of excessive use of inhumane oppressive policies and treatments that severely impair an individual's mental and physical health. This comprehensive bill could serve as a manual that might be entitled, "A Humane and Effective Treatment for Restrictive Housing."

This bill includes special training (at least 40 hours with scheduled updates) by all personnel involved in the supervision and care of those placed in restrictive housing. This includes criteria for who can and can not be placed in restrictive housing based on classifications of the mental state of the individual, like "schizophrenic disorders." Weekly assessments by a mental and a physical professional including a management supervisor. The incarcerated person may not serve more than three consecutive days in confinement unless they commit one the seven identified offenses, like "sexual assault." HB 385 supports the UN Statute of Torture stating that if Restrictive Housing encompasses more than fifteen consecutive days it classifies as TORTURE. This action is limited by this bill to a maximum of four occurrences a year per individual.

Three years ago, Connecticut Dept. of Corrections was evaluated on its use of Restrictive Housing by a UN Special Rapporteur on torture who reported: The Connecticut Department of Corrections (DOC) has appeared to routinely repress inmates through prolonged or indefinite isolation, excessive use of in-cell restraints and "needlessly intrusive strip searches," the expert said. If a UN Special Rapporteur came here today, how would Maryland rate?

Let's support a culture where the "inherent worth and dignity of all" is the norm not the exception.

Vote yes for SB 459.

Thank you for your service in this noble work.

Respectfully submitted,

Karen Clark

UULM-MD Criminal Justice Lead Advocate

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2023 JCRC SB 459 - Correctional Services—Restricti

Uploaded by: Ashlie Bagwell

Position: FAV



**Testimony in SUPPORT of *Senate Bill 459* – Correctional Services—Restrictive Housing—Limitations (Maryland Mandela Act)
Judicial Proceedings Committee
March 8, 2023**

The Jewish Community Relations Council of Greater Washington (JCRC) serves as the public affairs and community relations arm of the Jewish community. We represent over 100 Jewish organizations, synagogues, and social services agencies throughout Maryland, Virginia, and the District of Columbia. The JCRC is strongly committed to cultivating a society based on freedom, justice, and pluralism. We work throughout the region to advocate for our agencies that serve the most vulnerable residents and to campaign for important policy interests on behalf of the Jewish community and all Marylanders. The JCRC is focused on promoting social justice and intergroup relations and combating antisemitism and all forms of hatred.

The JCRC's advocacy is grounded in core values of the Jewish faith: Justice, repentance, and the preservation of human life (Exodus 20:13). It is from this perspective that support Senate Bill 459 - Correctional Services—Restrictive Housing—Limitations, also known as the Maryland Mandela Act. This Bill requires hearing officers and personnel involved with the supervision and care of individuals placed in restrictive housing to undergo certain training and to establish guidelines and procedures for the placement of incarcerated individuals in restrictive housing or disciplinary segregation. SB 459 requires each correctional facility create a monthly report containing certain information about individuals placed in restrictive housing and to publish the report on the facility's website.

JCRC believes that conditions of confinement must be humane and that certain conditions, including the overuse of solitary confinement, can impose dire consequences more egregious than the sentences themselves. We are extremely concerned about the devastating mental health effects of restricting housing/solitary confinement. The practice of keeping an individual in a one-person cell with no opportunities for meaningful human interaction causes long term harm to an incarcerated person's mental and physical health. Additionally, this practice does not only injure the incarcerated individual, but also our entire system of corrections. Upon release, individuals who have been harmed by the lack of adequate human interaction, are incapable of productive participation in society. For these reasons, the JCRC supports SB 459 and asks for a favorable report.

For these reasons, we ask this committee to give a favorable report on Senate Bill 785.

Bruce Turnbull written testimony in favor of SB 45

Uploaded by: Bruce Turnbull

Position: FAV

March 7, 2023

Bruce H. Turnbull
4838 Montgomery Lane
Bethesda, MD 20814
brucehturnbull@gmail.com

TESTIMONY ON SB 459 - FAVORABLE
Restrictive Housing Limitations/Maryland Mandela Act

TO: Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee
FROM: Bruce H. Turnbull

My name is Bruce H. Turnbull. I am a resident of District 16. I am submitting this testimony in favor of SB 459, to place restrictions on the use of restrictive housing in Maryland prisons (applying the “Mandela rules” to our state-run prisons). I am writing on my own behalf as a citizen of Maryland but with the background of working with several Jewish and multifaith organizations with respect to needed reforms in our criminal legal system.

My support for this bill is based on two basic reasons.

First, core principles of my Jewish faith, principles that are largely common to all faiths, include the most basic principle that all persons are made in the image of the divine and must be treated accordingly. Further, my faith tradition is that those who commit wrongs, and those against whom wrongs are committed, must be afforded the opportunity for restorative justice, allowing healing to take place and all affected, including the broader community, to return to the path of righteousness.

The use of “restrictive housing” (Maryland’s euphemistic name for what has long been known as solitary confinement) is fundamentally at odds with the treatment of human beings as in the image of the divine and with the restorative justice that is needed for all.

Second, the international community and the psychological community have found that extended (longer than 15 consecutive days of) solitary confinement is tantamount to torture and results in serious, often permanent, psychological (and sometimes physical) damage.

Based on the terrible experiences Nelson Mandela had in South Africa, the United Nations studied the use of solitary confinement, concluding that its use for longer than 15 consecutive days constitutes torture. The UN’s resolution on this subject emphasized that the use of solitary confinement must be used only in extreme cases and even then only as a last resort for short periods of time. Those who would be subject to such confinement must be afforded an independent review to determine whether such confinement is necessary in the particular case. Those with disabilities (mental or physical) should never be placed in solitary confinement. UN General Assembly, Resolution 70/175 , “[United Nations Standard Minimum Rules for the Treatment of Prisoners \(the Nelson Mandela Rules\)](#)”, January 8, 2016. The resolution was adopted by the General Assembly on December 17, 2015.

From the psychological standpoint, a 2021 report from the Vera Institute of Justice found that the overwhelming evidence, over 150 years of research, shows that solitary confinement “can lead to serious and lasting psychological damage.” The report further found that “negative mental health repercussions can persist long-term” and that among people released from prison, those who spent time in solitary “were 78 percent more likely to die from suicide within the first year of their return to the community than people who had been incarcerated but not placed in solitary.” Kayla James and Elena Vanko, “The Impacts of Solitary Confinement” (April 2021), found at <https://www.vera.org/downloads/publications/the-impacts-of-solitary-confinement.pdf>

In response to comments in relation to the House Judiciary Committee hearing on the companion bill in that body, sponsors and supporters of the legislation have made several amendments.

- The most significant is the exclusion of jails and other detention facilities operated by local jurisdictions.
- Other changes address points that were not clear in the original legislative drafting, including conforming the definition of “severe mental illness” with the one in the Code of Maryland Regulations and enabling prison officials to forgo certain services if there is a genuine threat to the safety of those who are incarcerated or prison guards or other service providers.

With these amendments in place, it is hard to understand the objections that continue to be raised. The bill would simply ensure that Maryland prisons no longer engage in what is generally agreed to be torture – keeping an individual in solitary confinement for more than 15 consecutive days or more than 60 days in a year, providing basic, bare minimum due process for someone who is being placed in solitary confinement, and maintaining some level of access to programs and services in the prison. If those requirements are enacted and carried out, Maryland would conform to internationally recognized limits on the use of solitary confinement. Anything less would mean that Maryland would continue to engage in torture.

In the spirit of Governor Moore’s admonition – Maryland must lead, in this area as well as others that he and the legislature are working on.

Thank you for the opportunity to provide this testimony.

SB459_Carol Stern_FAV.pdf

Uploaded by: CAROL STERN

Position: FAV

Carol Stern
4550 North Park Avenue, Apt. T106
Chevy Chase, MD 20815

**Testimony in Support of SB459
Correctional Services – Restrictive Housing – Limitations 3 (Maryland Mandela Act)**

TO: Chairman Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee
FROM: Carol Stern

My name is Carol Stern and I am testifying in favor of SB459 as a resident of Montgomery County’s District 16 and a member of Adat Shalom Reconstructionist Congregation in Bethesda.

There are two Jewish texts that shape my religious and moral abhorrence of solitary confinement. In Genesis Chapter 1, we learn that **the human is created in God’s image - *B’tselem Elohim*. We all contain the divine spark, and we all deserve to be treated with respect and dignity. This applies to all people, whether they are incarcerated or not.**

The second text is in Genesis Chapter 2, where we learn that **“It is not good for the human to be alone.”** This is a powerful statement about our need to be nurtured by others at all times in our life. It is never good to be away from the nurturing company of other people and no one **should be alone during the difficult time of incarceration.** These two verses inspire the spiritual and moral imperative to work for changes to solitary confinement laws.

I can only imagine the pain that anyone feels when they learn that their family member has been placed in restrictive housing and isolated from human contact. Everyone must have human interaction, exercise, proper diet, and stimulation to fully reach their potential.

Solitary confinement is an archaic practice that should be ended and has been proven to be detrimental to everyone because of the toxic nature of this restrictive housing. We know that there is a lasting effect if anyone is exposed to extreme idleness, sensory deprivation, and lack of human interaction. This bill is one step toward treating incarcerated Marylanders with the dignity and respect that all people deserve.

I respectfully urge a favorable report on SB459.

SB0459 Testimony.pdf

Uploaded by: Christine Feldmann

Position: FAV



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(he/him)

March 7, 2023

Testimony in Support of Senate Bill 0459— Correctional Services - Restrictive Housing - Limitations (Maryland Mandela Act) Position: SUPPORT

Annapolis Pride's mission is to advocate for, empower, and celebrate our LGBTQ+ community in Anne Arundel County to live fully and authentically. Our vision is a safe, equitable, and anti-racist community where people of all identities thrive.

As such, the Board of Directors of Annapolis Pride enthusiastically supports Senate Bill 0459. This bill expands and updates non-discrimination policies in Maryland's correctional facilities, to include sexual orientation and gender identity and requires relevant authorities to engage in training to provide more trauma-informed care for those who are incarcerated and placed in restrictive housing.

People who identify as LGBTQ+ are over-represented in the prison population and are at high risk for sexual abuse and harassment while incarcerated. In some instances, LGBTQ+ individuals have been placed in restrictive housing solely because of their identity for the stated purpose of protecting them from the threat of the general population. However, restrictive housing can further isolate and traumatize these individuals, especially when they are isolated for an extended period of time. If they are denied access to exercise and other services or activities within the prison because of their restrictive housing, their rights are unfairly limited because of their identity or orientation.

In requiring officials to receive training on trauma-informed care and delineating the guidelines and procedures for placing detainees in restrictive housing to exclude gender identity and sexual orientation as the sole basis for placing someone in restrictive housing, this legislation is important to the community which we represent.

For these reasons, Annapolis Pride respectfully requests a favorable report on Senate Bill 0459.

SB459_FAV_ACLUMD.pdf

Uploaded by: David Carter

Position: FAV



**Testimony for the House Judiciary Committee
March 08, 2023**

SB 459 - Correctional Services - Restrictive Housing - Limitations (Maryland Mandela Act)

FAVORABLE

DAVID CARTER
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GENERAL COUNSEL

The ACLU of Maryland urges a favorable report on SB 459, which would set reasonable limitations on the use of restrictive housing in Maryland while requiring training for hearing officers and personnel involved with the supervision and care of individuals placed in restrictive housing.

Maryland has years of data detailing the overuse and misuse of restrictive housing

The General Assembly has ample data, showing the over usage of restrictive housing, to begin implementing substantive limits on the use of restrictive housing.

In 2010, the Department of Public Safety and Correctional Services (DPSCS) and the Vera Institute of Justice conducted a collaborative study that found that Maryland placed 8.5% of inmates in restrictive housing, compared with the national average of 4-5%.¹

In 2015, DPSCS reported to the Senate Judicial Proceedings Committee that Maryland's use of restrictive housing remained at about 8%.² The letter also revealed that the average length of stay in administrative segregation is 130 days. The average length of stay in disciplinary segregation is 124 days.³ Mentally ill inmates fared worse—they are placed in restrictive housing at a rate of 15.5% (twice that of the general population), and spend on average 228 days in administrative segregation and 224 days in disciplinary segregation.⁴ According to the U.N. Special Rapporteur on Torture, the mentally ill should never be placed in isolation.⁵

In 2016, under the reporting law passed by this body (SB 946, 2016) DPSCS again reported its overuse of restrictive housing. That report showed that in FY 16, 68% of Maryland's

¹ See attached excerpt of the Report of the Vera Institute of Justice—Segregation Reduction Project.

² Letter from Stephen T. Moyer, Secretary of the Department of Public Safety and Correctional Services to Hon. Bobby A. Zirkin, Re: Use of Segregated Confinement in Maryland's correctional facilities (dated Oct. 1, 2015).

³ *Id.*

⁴ *Id.*

⁵ Interim Report of the Special Rapporteur of the Human Rights Council on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. A/66/268 (August 5, 2011), par. 78.

prison population was placed in restrictive housing at some point in 2016.⁶ Moreover, the average length of stay in restrictive housing was 58 days.⁷

The 2017 report showed a significant uptick in these statistics—in FY17, 73% of all prisoners were placed in restrictive housing and DPSCS made 814 more placements in restrictive housing.⁸

A 2021 report showed a 5.7-day net increase in the length of stay in restrictive housing despite a slight drop in usage.⁹ It is therefore clear that Maryland overuses restrictive housing.

Overuse of restrictive housing is unsafe

Normal human contact is essential for ensuring successful re-entry and reducing recidivism rates. Prolonged isolation does not facilitate rehabilitation and can create or exacerbate pre-existing mental illnesses and other social, mental, and emotional problems. People held in restrictive housing are subject to conditions of extreme social and sensory deprivation. Deleterious effects of segregated confinement include perceptual distortions and hallucinations;¹⁰ revenge fantasies, rage, and irrational anger;¹¹ and lower levels of brain function, including a decline in EEG activity after only seven days in solitary confinement.¹² Significantly, people released directly from solitary confinement into the community have higher recidivism rates.¹³

Restrictive housing is not a panacea for safety

Other jurisdictions have reduced the use of restrictive housing without compromising prison safety. After Maine cut solitary in half between 2010 and 2012 there was no increase in prison violence.¹⁴ According to a 2014 study published by the Federal Bureau of Prisons,

⁶ Maryland Department of Public Safety and Correctional Service, Report on Restrictive Housing – Fiscal Year 2016 (December 2016).

⁷ *Id.*

⁸ Maryland Department of Public Safety and Correctional Service, Report on Restrictive Housing – Fiscal Year 2017 (December 2017).

⁹ Maryland Department of Public Safety and Correctional Service, Report on Restrictive Housing – Fiscal Year 2021 (December 2021).

¹⁰ Craig Haney, *Mental Health Issues in Long-Term Solitary and “Supermax” Confinement*, 49 CRIME & DELINQ. 124, 130 (2003); see generally Richard Korn, *The Effects of Confinement in the High-Security Unit at Lexington*, 15 Soc. Just. 8 (1988).

¹¹ Holly A. Miller & Glenn R. Young, *Prison Segregation: Administrative Detention Remedy or Mental health Problem?*, 7 CRIM. BEHAV. & MENTAL HEALTH 85, 91 (1997); see generally HANS TOCH, *MOAIC OF DESPAIR: HUMAN BREAKDOWN IN PRISON* (1992).

¹² Paul Gendreau, N.L. Freedman, G.J.S. Wilde & G.D. Scott, *Changes in EEG Alpha Frequency and Evoked Response Latency During Solitary Confinement*, 79 J. OF ABNORMAL PSYCHOL. 54, 57-58 (1972).

¹³ See David Lovell, “Patterns of Disturbed Behavior in a Supermax Population,” *Criminal Justice and Behavior* 35 (2008): 9852; David Lovell, L. Clark Johnson, and Kevin C. Cain, “Recidivism of Supermax Prisoners in Washington State,” *CRIME AND DELINQUENCY* 53 (2007): 633-656; and David Lovell and Clark Johnson, “Felony and Violent Recidivism Among Supermax Inmates in Washington State: A Pilot Study” (University of Washington, 2004).

¹⁴ Change Is Possible: Solitary confinement destroys lives, ACLU of Maine, available at <http://www.aclumaine.org/changeispossible>.

“States that have reduced segregation populations have found no adverse impact on institutional safety.”¹⁵

In 2013, the U.S. GAO also reported jurisdictions that have reduced the use of restrictive housing saw no adverse impact on safety—

After implementing segregated housing unit reforms that reduced the number of inmates held in segregation, officials from all five states we spoke with reported *little or no adverse impact on institutional safety*.¹⁶ (emphasis added)¹⁷

For the foregoing reasons, the ACLU of Maryland urges a favorable report on SB 459.

AMERICAN CIVIL
LIBERTIES UNION
FOUNDATION OF
MARYLAND

¹⁵ Federal Bureau of Prisons: Special Housing Unit Review and Assessment (Dec. 2014) (http://www.bop.gov/resources/news/pdfs/CNA-SHURReportFinal_123014_2.pdf)

¹⁶ United States Government Accountability Office, Report to Congressional Requesters (2013) evaluating the impact of segregated housing (Pp. 34-35 state).

¹⁷ The GAO report further detailed that, “While these states have not completed formal assessments of the impact of their segregated housing reforms, officials from all five states told us there had been no increase in violence after they moved inmates from segregated housing to less restrictive housing.” *Id.*

2023 Letter of Support for Restrictive Housing SB0

Uploaded by: Donna Rojas

Position: FAV

March 7, 2023

The Honorable William Smith
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

RE: Letter in Support of SB0459 – Correctional Services – Restrictive Housing – Limitations
(Maryland Mandela Act)

Dear Chairman Smith and the Members of the Judicial Proceedings Committee::

On behalf of the Maryland Alliance for Justice Reform (“MAJR”) (“Commission”), I write to express our strong support of SB0459 – Correctional Services – Restrictive Housing – Limitations (Maryland Mandela Act) (cross-filed with HB0385) and to urge the Committee to issue a favorable report on this bill. I am Donna Rojas, executive committee member and co-chair of the Behind the Walls Workgroup in MAJR.

As a reentry expert and former provider of direct services to justice-involved individuals, I have witnessed the restrictive impact housing can have on an incarcerated individual. Cruel and excessive use of restrictive housing can negatively affect those experiencing mental illness and even those with relatively healthy minds. Being locked down without programming or social interaction for 23 hours daily can contribute to cognitive regression, physical muscular loss, and atrophy health issues. In addition, this could impact effective and successful reentry as individuals must deal with post-incarceration syndrome going from solitary to the streets.

Proper procedures and policies and adequate training of staff working in the restrictive housing area benefit those who may have a serious or violent infraction. However, they should not be “locked down” for weeks and months at a time without opportunity for socialization. Depending on the offense, there should be some “cooling down” period with a trained professional (social worker, case manager, or trained officer) to assist the individual in recognizing what transpired and working through things and then a step-down program moving them to less restrictive housing and increased programming. If individuals are a danger to themselves, the staff, or others, equipped with mental health training may be needed as jails and prisons are not equipped with adequate mental health staffing. Our jails and prisons are not mental health facilities.

Vera Institute advocates for rethinking restrictive housing as it can have significant adverse effects. There is no proof that it improves safety. Organizations such as the American Correctional Association, the National Commission on Correctional Health Care, the U.S. Department of Justice, The National Institute of Justice, and the United Nations have all had meetings to discuss revamping policies around restrictive housing. Now is the time for Maryland to change the trajectory related to these predatory practices and vote in favor of this bill.

Thank you.

Sincerely,

A handwritten signature in black ink that reads "Donna Rojas". The letters are cursive and connected.

Donna Rojas

SB459_Testimony_2023.pdf

Uploaded by: Emma Holcomb

Position: FAV



Empowerment. Integration. Equality.

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www.DisabilityRightsMD.org

Maryland Senate Judicial Proceedings Committee – Bill Hearing
Wednesday, March 8, 2023 1:00 PM
Written Testimony in Support of Senate Bill 459

Disability Rights Maryland (DRM) is the state-designated Protection and Advocacy agency authorized under the Protection and Advocacy for Individuals with Mental Illness Act and the regulations thereto to protect and advocate for the rights of individuals with mental illness. DRM has worked to document serious issues in state correctional facilities and advocate for improved conditions, particularly in restrictive housing units. We have toured facilities across the state, reviewed thousands of pages of records, met with wardens, engaged with administrators and representatives of the Department of Public Safety and Correctional Services (DPSCS), and communicated with both incarcerated individuals and correctional staff throughout the State. Our testimony is informed by what we have learned through this work and from those who are directly impacted.

The use of restrictive housing for individuals with serious mental illness is our main focus in state correctional facilities. Studies have shown that confining an individual in a cell for 22 hours or more per day is a harmful practice that can cause depression, trauma, paranoia, anxiety, suicidal ideations, and exacerbate existing mental illness. DRM's investigations have revealed that individuals with serious mental illness are placed in restrictive housing at much higher rates and for much longer than persons without serious mental illness. In FY 2021, DPSCS reported that 22% of incarcerated individuals with serious mental illness were placed in restrictive housing.¹

Very little, if any, mental health services are provided to individuals in restrictive housing units to mitigate its harmful effects. Health care records indicate that some individuals may not receive any structured out of cell services or programming for months at a time. Mental health treatment in segregation is typically limited to psychiatric medication or occasional work sheets that must be completed alone in cell. The quality of mental health care in these units is grossly inadequate.

This bill would prevent the placement of individuals with serious mental illness, individuals with developmental disabilities, those with serious medical conditions that cannot be effectively treated in restrictive housing, and those with significant auditory or visual impairments in

¹ *Department of Public Safety and Correctional Services Report on Restrictive Housing – Fiscal Year 2021 Fulfilling Reporting Requirements of Correctional Services Article § 9-614, December 2021, 12.*

restrictive housing. Many organizations, including the National Commission on Correctional Health Care and the American Public Health Association, have recommended that restrictive housing not be used for individuals with serious mental illness. In cases where restrictive housing is used for anyone, adequate out-of-cell time should be consistently provided. This bill would finally bring Maryland in line with these recommendations.

The widespread use of restrictive housing in Maryland correctional facilities must change. DRM urges this committee to address these issues and provide a favorable recommendation for House Bill 385.

Respectfully,

Em Holcomb
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**Authorized to practice under Rule 19-218*

_SB 459 Restrictive Housing Limitations.pdf

Uploaded by: Jo Shifrin

Position: FAV

SB 459_Jo Shifrin_FAV
Date of Hearing March 8, 2023
Jo Shifrin
Bethesda, Maryland 20817

TESTIMONY ON SB 459 - POSITION: FAVORABLE
Correctional Services - Restrictive Housing Limitations

TO: Senator Smith, Chair, and Senator Waldstreicher, Vice Chair, and members of the Judicial Proceedings Committee

FROM: Jo Shifrin

My name is Jo Shifrin. I am a resident of District 16. I am submitting this testimony in support of SB 459.

As a Jew, I believe in *tikkun olam*, repairing the world. I believe in the dignity of every human being, I believe in practicing charity and acts of human kindness, and I believe in pursuing justice in a just way.

Solitary confinement, or restrictive housing as it is known in Maryland, is a form of torture, in my view and in the view of many mental health professionals. It is detrimental to both physical and mental health. Many incarcerated people have spent weeks at a time locked in a cell the size of a parking space for 22 or more hours out of each 24 hour day. Moreover, this punishment is used disproportionately on the poor and people of color. The harm we do to these people is unconscionable.

This bill is a first step in limiting –and I hope one day– abolishing the use of solitary confinement. It limits the basis for restrictive housing and limits the number of consecutive days someone may be held. It also provides for due process for those in prison and accountability for the prison system. It is a big improvement on what has been the traditional use of restrictive housing, and for that reason, **I respectfully urge this committee to return a favorable report on SB 459.**

WDC 2023 Testimony SB0459_Final.pdf

Uploaded by: JoAnne Koravos

Position: FAV



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

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Senate Bill 459
Correctional Services – Restrictive Housing – Limitations (Maryland Mandela Act)
Judicial Proceedings Committee – March 8, 2023
SUPPORT

Thank you for this opportunity to submit written testimony in support of **SB0459**, the **Correctional Services – Restrictive Housing – Limitations (Maryland Mandela Act)**. Passage of this legislation in the 2023 legislative session is a priority for the **Montgomery County Women's Democratic Club (WDC)**.

WDC is one of Maryland's largest and most active Democratic clubs with hundreds of politically active members, including many elected officials. We thank Delegate Bartlett for her leadership in sponsoring this bill and we urge a favorable report.

Senate Bill 459 limits the use of restrictive housing in Maryland prisons, a practice that is as counterproductive as it is inhumane. Solitary confinement, or restrictive housing as it is called in Maryland, includes isolating a person in a cell for upwards of 22 hours a day, for days, weeks, months, and often years. The impact of days in solitary can be devastating to mental and physical health; people locked up in this way suffer depression and anxiety, and they are far more likely to mutilate themselves or die by or attempt suicide. Solitary confinement destroys people: it has been described as permanently damaging the mind, body, and soul of those who experience it.

As the name of this bill references, the United Nations included strict limits on the use of solitary in its revised Minimum Standards for the Treatment of Prisoners, known as the Nelson Mandela Rules. The standards demand that, at a minimum, all nations restrict their use of solitary to no more than 15 days, and ban it altogether for children, pregnant people and new mothers, individuals with mental illness and physical disabilities, and other vulnerable populations. New York recently passed legislation, known as the HALT Act, which comes close to meeting this floor. This bill is similarly influenced, although its 30-day restrictive housing provisions for serious infractions exceed the Mandela standard.

The general populations in Maryland prisons suffer bad food, filth, fledgling rehabilitative services, and inane, nerve-wracking rules. You might expect that a person in this environment who is then sent to solitary confinement to have done something terrible to deserve the decidedly worse treatment. This is not so. People are placed in solitary for running afoul of administrative rules, for mental health issues, for their own protection, because of sexual orientation - things that have nothing to do with violent acts that might arguably lead officials to

engage in such an extreme and damaging response. The last report on the use of solitary confinement in Maryland prisons was fiscal year 2021, DPSCS Report on Restrictive Housing – Fiscal Year 2021 (pursuant to Correctional Services Article, § 9-614). It revealed that 8,577 people were placed in restrictive housing, with 52% of those placements being administrative, as opposed to disciplinary. The average length of confinement reported was just under 60 days.

As with incarceration overall in the state, the vast majority of people placed in restrictive housing are Black. According to the DPSCS Report, almost 72% of the men in restrictive housing were Black, while 22% were white. The gap for those in disciplinary segregation is even greater, with over 78% Black and over 16.4% white. For women, almost 51% in restrictive housing were Black and slightly over 45% were white.

DPSCS also reported that overall it reduced its use of restrictive housing in 2021 by 15.6%. This is good news. However, it does not change the fact that this is an inhumane and destructive practice. Reporting that usage is down does not change the fact that the practice should be avoided altogether, and that the length of any disciplinary segregation used should be circumscribed to, at a minimum, align with the Mandela Rules.

As Marylanders, we are responsible for what happens to those we place in prison. We need to assure that those we incarcerate are not returned home wounded by the treatment they receive. Restrictive housing is counterproductive and a poor use of our investment as taxpayers in the rehabilitation of people who will inevitably return to our communities. Senate Bill 459 is carefully tailored to narrow the resort to restrictive housing and to encourage the use of more productive approaches to maintaining safety and order in our prisons. While we would like to have seen it go further by prohibiting any use of restrictive housing beyond the 15-day limit under the Mandela Rules, this is a strong and much needed step in the right direction.

We ask for your support for SB0459 and strongly urge a favorable Committee report.

Diana E. Conway
WDC President

Margaret Martin Barry
WDC Advocacy Committee

burks testimony.pdf

Uploaded by: Judith Lichtenberg

Position: FAV

Ricardo Burks
4647 Rokeby Road
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March 7, 2023

My name is Ricardo Burks, and I am a registered voter. Recently, I served thirty-two years of confinement in the Maryland Department of Corrections. Therefore, I am uniquely qualified to offer a first-hand account of the devastating effects of solitary confinement on mental health. For many, suicide becomes the only logical way to escape the terror of isolation. I also contemplated committing suicide while in solitary confinement.

In recent years, the Maryland Division of Corrections made a conscious choice to move away from the phrase solitary confinement in favor of the more sanitized word, administrative segregation. Nevertheless, the only thing that changed was the words; the conditions and the results of such confinement are the same.

I spent several months on administrative segregation in the Maryland Penitentiary. My mind began to construct conversations, two and three-party conversations with myself, spending days asking questions of myself, then answering those questions from different personas. The lack of social contact caused me to become psychotic. I became paranoid, experienced severe panic attacks, and had great difficulties thinking clearly, believing everyone was against me, even my own family. The hallucinations made suicide appear as the perfect solution. I was fortunate. I survived.

I urge this august body to abolish solitary confinement in the great state of Maryland.

Sincerely,

Ricardo Burks

solitary testimony.senate jpr.pdf

Uploaded by: Judith Lichtenberg

Position: FAV

[SB45/HB385](#)
**Correctional Services – Restrictive Housing – Limitations
(Maryland Mandela Act)**

My name is Judith Lichtenberg. I am professor emerita of philosophy at Georgetown University. Since 2016, I've been teaching, tutoring, and mentoring at Jessup Correctional Institute as well as at the DC Jail. I'm on the executive committee of the [Maryland Alliance for Justice Reform](#) and co-chair its Behind the Walls Workgroup. Senator Alonzo Washington represents me in District 22.

Solitary confinement—known in Maryland as “restrictive housing”—was originally intended to separate the most dangerous prisoners from others and to keep vulnerable prisoners safe temporarily. But in Maryland and elsewhere, solitary is used far more widely. Prisoners who have committed minor rule violations, many of whom are mentally ill, are often put in isolation, sometimes for long periods. Incarcerated prisoners in solitary typically live in small cells for more than 22 hours a day—for weeks, months, or even years. Even the few hours a week that they are permitted out of their cells for recreation and bathing is often cut short.

There is strong evidence from a variety of sources that solitary confinement often causes irreparable physical and mental harm, both to the individual and to others with whom they may have contact.

The Maryland Alliance for Justice Reform ([MAJR](#)) joins with Interfaith Action for Human Rights ([IAHR](#)) in supporting the Maryland Mandela Act—named, obviously, for Nelson Mandela, who was imprisoned in South Africa for 27 years and who [said](#) that solitary confinement was “the most forbidding aspect of prison life.”

The Maryland bill was inspired by the [United Nations Nelson Mandela Rules](#) for the treatment of prisoners, adopted in 2015. “All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment...” Near-total isolation is cruel, inhuman, inhumane—and almost always unnecessary.

The Mandela bill would cap the use of solitary; prohibit it for vulnerable people; severely limit the practice for juveniles; and allow those put in restrictive housing to contest their confinement. In addition, it would require that staff involved with restrictive housing undergo substantial training and that state correctional facilities publish a monthly report with information about individuals in restrictive housing.


Solitary confinement is a dangerous practice that sometimes amounts to torture, more often to negligence. On behalf of MAJR, I urge you to give a favorable report to the Maryland Mandela Act.

Sincerely,
Judith Lichtenberg
7109 Eversfield Drive
Hyattsville, MD 20782
jalichtenberg@gmail.com
301.814.7120

NASW Maryland - 2023 SB 459 FAV - Solitary Confine

Uploaded by: Judith Schagrin

Position: FAV



Senate Judicial Proceedings Committee
Senate Bill 459 - Correctional Services - Restrictive Housing – Limitations
Maryland Mandela Act
March 8, 2023
SUPPORT

Maryland's Chapter of the National Association of Social Workers (NASW-MD), which represents professional Social Workers across the state of Maryland supports Senate Bill 459 - Correctional Services- Restrictive Housing Limitations (Maryland Mandela Act). This bill requires hearing officers and personnel involved with the supervision and care of individuals placed in restrictive housing to undergo 40 hours of training with established guidelines and procedures for the placement of incarcerated individuals in certain types of restrictive housing or disciplinary segregation. It also requires each correctional facility to create a monthly report containing certain information about individuals placed in restrictive housing to publish the report on the facility's website.

Social Workers support this bill because training has a direct impact on performance and will give hearing officers and personnel involved with the supervision and care a better understanding of their responsibility and knowledge and skills to do that job.

We urge a favorable response for SB 459.

Yvonne Davis, Chair Forensics Committee
NASW-Maryland

SB 0459 - Favorable.pdf

Uploaded by: Kenneth Phelps, Jr.

Position: FAV



THE EPISCOPAL DIOCESE OF MARYLAND

TESTIMONY IN SUPPORT OF SB 0459:

Correctional Services - Restrictive Housing - Limitations (Maryland Mandela Act)

****FAVORABLE****

TO: Sen. William C. Smith, Jr., Chair, Sen. Jeff Waldstreicher, Vice Chair and the members of the Senate Judicial Proceedings Committee

FROM: Rev. Kenneth O. Phelps, Jr., Co-Chair, Maryland Episcopal Public Policy Network, Diocese of Maryland

DATE: March 8, 2023

The Episcopal Church, at its 78th Convention in 2015, passed sweeping resolutions aimed at ending mass incarceration practices and mitigating solutions for the damages inflicted upon certain communities by both arrest and sentencing policies and practices, and called for sweeping reforms in the practice of restrictive housing.

Numerous studies show that restrictive housing hurts prisoners, families and communities.

First and foremost, prisoners suffer. Prisoners in restrictive housing have suffered physical and psychological harms, such as psychosis, trauma, severe depression, serious self-injury, or suicide.

Their families suffer. When a prisoner is in restrictive housing, s/he has limited visits and calls from family—this not only punishes families it breaks down the family ties that are crucial to re-entry.

And their communities suffer. Many prisoners are released directly from restrictive housing into the community—this is not safe. During restrictive housing, prisoners often have limited opportunity to seek support from faith leaders and other sources of support, which may be instrumental in supporting the inmate during confinement, but also for safe re-entry upon release.

The Diocese of Maryland requests a favorable report.

Mandela Act testimony kdw 2023-1.pdf

Uploaded by: Kimberlee Watts

Position: FAV



NATASHA DARTIQUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
DIRECTOR OF POLICY AND DEVELOPMENT

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS DIVISION

POSITION ON PROPOSED LEGISLATION

BILL: SB 459/ HB 385, Maryland Mandela Act
FROM: Maryland Office of the Public Defender
POSITION: Favorable
DATE: March 6, 2023

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 459.

Submitted by: Government Relations Division of the Maryland Office of the Public Defender.

Authored by: Kimberlee D. Watts, Forensic Mental Health Division, 410-767-9855,

Kimberlee.watts@maryland.gov

I am an attorney with the Office of the Public Defender. I have been practicing criminal defense for 23 years, currently in one of OPD's statewide divisions, the Forensic Mental Health Division. Over the course of my career, I have worked with many people who have been placed in "restrictive housing", some for disciplinary reasons, some for administrative reasons, some as a protective custody measure.

Restrictive Housing is more commonly called solitary confinement; solitary because a person is locked in a cell alone. My clients describe solitary confinement as being locked in cells smaller than the size of a parking space for 23 hours a day, with nothing but their own thoughts. They have one hour per day where they can exercise or shower, there is not generally time for both. Undoubtedly prisons are difficult work settings, and so the appeal of solitary confinement is its simplicity. However, it has not been found to either reduce behavioral infractions or reduce recidivism, but it has been found to cause great harm.

DPSCS files an annual report on their use of Restrictive Housing. In fiscal year 2021 DOC housed over 18,800 people 3,300 (18%) of them were placed in restrictive housing, more than half of those were in solitary confinement for administrative reasons, rather than for disciplinary segregation. Solitary confinement is most often used with African American people-- ¾ of men and half of the women placed in solitary were African American.¹

Mental Health Professionals have long known that solitary confinement causes significant harm. The American Psychological Association has come out solidly against the use of prolonged solitary confinement.²

Courts have also acknowledged the harms caused by solitary confinement, holding that for inmates already suffering with mental illness it can amount to cruel and unusual punishment. In fact, in 2017 the U.S. Federal Court upheld a Pennsylvania lawsuit alleging wrongful death where parents of a 23 year old sued based on the cruel and unusual punishment of solitary confinement causing their son's suicide;³ ultimately the case settled for \$675,000.⁴ This should be a cautionary tale for Maryland, where our DOC housed 338 people with serious mental illness (which is 500 fewer people than in 2020 and 2,000 fewer people than in 2019). While in solitary confinement 6 people made suicidal gestures, including one person who indeed died from suicide. Another 2 people died from other causes while in solitary confinement.

Former corrections executives, as amici curiae, have also opposed prolonged solitary confinement stating "Imprisoning people with SMI in solitary confinement is detrimental to their mental and physical

¹ Maryland Department of Public Safety and Correctional Services, Report on Restrictive Housing – Fiscal Year 2021. <http://goccp.maryland.gov/wp-content/uploads/SB946-FY21-Restrictive-Housing-Report.pdf>

² APA Position Statement on Segregation of Prisoners with Mental Illness, 2017. <https://solitarywatch.org/wp-content/uploads/2018/09/APA-Position-Paper.pdf>

³ Palakovic v. Wetzel, 854 F.3d. 209 (2017).

⁴ Altoona Mirror. *Inmate's parents, DOC settle lawsuit*. April 7, 2021. <https://www.altoonamirror.com/news/local-news/2021/04/inmates-parents-doc-settle-lawsuit/>

health. Further punishing those people with round-the-clock, unrelenting 24/7 solitary confinement and deprivation of exercise as punishment for behaviors caused by their SMI is illogical and counterproductive to the goals of safety, security, and good order of correctional facilities.”⁵

People with Severe Mental Illness (SMI) experience exacerbated symptoms and are at increased risk of suicide and psychosis when placed in solitary confinement.⁶ This exacerbation in symptoms and deterioration in their mental well-being leads to more disruptive behaviors and infractions, leading to additional time in solitary confinement. “In this way, the harm becomes cyclical, and traps incarcerated people in prolonged and unending solitary confinement without access to rehabilitative programming vital to successfully reentering society after their release.”⁷

Even for people without serious mental illness it is widely recognized that people in protracted solitary confinement suffer extensive harm, including anxiety, panic, hallucinations, self-mutilation, and suicidality.⁸ Solitary confinement also leads to psychosis, depression, memory loss, paranoia, and both cognitive and physical declines.⁹

In light of those effects of solitary confinement, it is not surprising that it does not reduce either inmate on inmate violence, or violence against correctional staff. “In fact, solitary confinement does not “inspire even short-term behavioral changes in inmates. On the contrary, prisons with higher rates of restrictive housing had higher levels of facility disorder.”¹⁰

⁵ Johnson v. Prentice, et al. in the Supreme Court of the United States. Brief of Former Corrections Executives Martin F. Horn, Scott Frakes, Steve J. Martin, Ron McAndrew, Richard Morgan, Dan Pacholke, Emmitt Sparkman, Phil Stanley, Eldon Vail, and Roger Weholtz as Amici Curiae in support of Petitioner. February 23, 2023, at page 39.
https://www.supremecourt.gov/DocketPDF/22/22-693/255497/20230224114849881_2023.02.21%20Amicus%20Brief%20FINAL.pdf

⁶ 6 Dana G. Smith, *Neuroscientists Make a Case against Solitary Confinement*, SCIENTIFIC AMERICAN (Nov. 9, 2018), <https://www.scientificamerican.com/article/neuroscientistsmake-a-case-against-solitary-confinement/> (last visited Feb. 21, 2023).

⁷ Brief of Former Corrections Executives, *supra* at 9.

⁸ Craig Haney, *Restricting the Use of Solitary Confinement*, 1 ANN. REV. CRIMINOLOGY 285, 286 (2018).

⁹ *Id.* note 15 at 299.

¹⁰ Brief of Former Corrections Executives, *supra* at 19-20.

Increased use of solitary confinement is also linked to worse public safety outcomes. “Research shows a direct correlation between the length of imprisonment in solitary confinement and the odds of recidivism. One metaanalysis found that the longest terms in solitary confinement were associated with the highest rates of recidivism, suggesting that increases in the length of exposure may have deleterious effects.”¹¹

For these reasons, we ask that you pass the reforms outlined in the Mandela Act. I thank you for your time today.

¹¹ *Id.* at 22.

SB 459 MD Mandela Act IAHR FAV.pdf

Uploaded by: Kimberly Haven

Position: FAV

Kimberly Haven

February 10, 2023

Chairman Will Smith
Vice Chairman Jeff Waldstreicher
Senate Judicial Proceedings Committee

Senate Bill 459 - Maryland Mandela Act
Correctional Services – Restrictive Housing - Limitations
POSITION: FAVORABLE

Members of the Senate Judicial Proceedings Committee,

My name is Kimberly Haven, and I am the Legislative Liaison for Interfaith Action for Human Rights, and ***I offer this testimony in support of SB 459 – the Maryland Mandela Act.***

This legislation is the culmination of several years of effort to reform Maryland’s use of Restrictive Housing. It has been referred to as the most inhumane of all treatment of our incarcerated population. It is not a corrective practice, it is not rehabilitative, it is quite simply torture.

Across the country there are efforts underway to bring about transformative change in U.S. prisons and jails. Maryland has the opportunity to be a leader in this effort – but Maryland must start with focusing on the human dignity of incarcerated people and staff. The use of solitary confinement—also known as segregation or restrictive housing—presents a major barrier to this change.

Advocacy and human rights groups, policymakers, health care professionals, faith-based organizations, and correctional leaders have condemned use of solitary confinement in our jails and prisons. The use of restrictive housing was originally intended to address dangerous, violent behavior in facilities – however, it has now become a tool for responding to all levels of misconduct—ranging from serious assaults to minor, nonviolent rule violations—and for housing vulnerable people.

In Maryland the use of restrictive housing is used as a weapon by our correctional system. The use, misuse and the ever-present threat of placement in restrictive housing has detrimental and chilling effects.

The argument that restrictive housing is used in order to make our facilities safer – however, all the research shows that the use of restrictive housing **does not** achieve its intended purpose—it does not make prisons, jails, or the community safer, and in fact it makes them less safe.

What this legislation will do, is create a “Best Practices” model for the Department of Correctional Services and Public Safety (DPSCS) to implement. This legislation recognizes the need for institutional security and safety, but it also recognizes the need for human dignity, alternatives to the use of restrictive housing, supports training for correctional staff to understand the impact and damage caused by its use and it provides guidance on how, when, and why the practice should be used.

Interfaith Action for Human Rights, our members, partners, supporters and allies, have come before this legislative body every year to bring about systemic reform – we have been successful in some areas (youth, pregnant and postpartum individuals) but now we must tackle its entirety.

The use of restrictive housing must ALWAYS be seen as a court of last resort – it must always be used only for the most egregious guilty findings and then only for the shortest amount of time. The mental, physical, emotional harm that being placed in a room that is the size of a parking space is documented and is permanent.

Reading the legislation, reading, and listening to the testimonies in support that are going to come before you is just one piece of understanding what restrictive housing/solitary confinement is –

BUT, simply google solitary confinement testimonies and read the stories – Visualize the stories that you read – feel the stories that you read. You will come to understand why it is time to implement these best practices.

This legislation is **GOOD POLICY – it is BEST PRACTICES** and it’s time for Maryland to reform the use of Restrictive Housing.

For these reasons and on behalf of Interfaith Action for Human Rights, their members, partners and supporters, ***we urge a favorable report on SB 459.***

Respectfully submitted,
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Testimony. March 8, 2023.pdf

Uploaded by: Lucy Kiekebusch-Steinitz

Position: FAV

Testimony. Mandela Bill

Good afternoon and thank you for accepting my testimony, particularly Senator Jeff Waldstreicher from my own district and in Silver Spring. I come here as an active member of the Maryland Alliance for Justice Reform and the Interfaith Action for Human Rights, both strong advocates for this bill.

You will hear many arguments today that this bill extends to local jurisdictional facilities, which it does not. You may hear that it involves millions of dollars of training, which it does not. You may even hear that it abolishes solitary confinement, which is also not true.

So let me tell what we are talking about:

Maryland ranks among the top ten states in the country with prisoners in Solitary Confinement¹. More than two thirds are black or Hispanic – mostly men. Our state's use of solitary is twice the national average. On a percentage basis, that's more than Mississippi, Texas, and Alabama. Really? Of the 19,883 inmates who made up the average daily prison population in Maryland in 2017, 14,578 were placed in restrictive housing, and 10,232 placements were in disciplinary segregation for at least some time during their incarceration. The average stay was 51.5 days – some, much longer.² And since the pandemic, the use of solitary confinement grew – I couldn't get exact numbers but it is still higher than it was before COVID.

What we mean by solitary confinement in Maryland is that one person – sometimes two – are placed in a cell the size of a parking space for 22, 23 and sometimes 24 a day. We use euphemisms in Maryland – we call it restrictive housing and administrative segregation – but same-same. Calling it something different doesn't change the situation. In Maryland, if you are placed in solitary

¹ <http://apps.frontline.org/solitary-by-the-numbers/>

² https://www.fredericknewspost.com/news/crime_and_justice/prison/in-maryland-prisons-solitary-confinement-is-common-and-controversial/article_9d4adc7c-657a-5319-8918-962fee6c4e4f.html

confinement, you are most likely denied reading or study material, let alone contact with your family – your future support system. The lights will be on, 24/7. If you are lucky, you may be let outside for a brief respite, but still isolated, without interaction – sometimes in a cage, as we would treat a zoo animal. Showers are usually just twice a week for 15 minutes or less.

The National Religious Campaign Against Torture, a coalition of over 300 religious organizations calls Solitary inhumane treatment, and so do our statewide coalitions that support this bill. So does the UN and countless international organizations. The Vera Institute of Justice cites vast literature on the mental and physical harms of restrictive housing, showing that it often leads to despair and anger, self-harm, and the loss of ability to relate to others.

Do you remember how you felt during the pandemic, particularly those early months when we were told not to leave our homes except in an emergency? We had all the accoutrements known to humankind – spacious living quarters, the internet, interaction with others -- and still many of us felt like we were going stir-crazy.

Solitary confinement does not make someone who is incarcerated into a better person. It does not prepare him for the outside. We accept that it can be used as a very temporary measure for someone's own protection or that of others in the facility. This use will still be allowed in this bill. But solitary confinement should not be used as a tool for management, for repeated or long-term isolation when there is no immediate threat to safety. Above all, the most vulnerable – juveniles, the mentally ill and people engaged in non-violent behaviors – such as substance abuse, petty rule violations or mere gang affiliation – should not be placed in prolonged solitary.

Since the pandemic, the number of persons in extended solitary confinement has grown – almost doubled in this country. Why? Because putting men in long-term or repeated episodes of solitary confinement makes for easier staff management. That is why the DCSPS doesn't want to change things. Out of sight, out of mind.

Until they come out and are back in our communities.

You may not care about these people while they are behind bars -- but most of them will come out of prison some day – making our State and this legislature responsible, at least in part, for the extra-difficult adjustment³ and ongoing violence that many returning citizens experience when they are once again in our communities, on our streets, and living with their families. Returning citizens who experience repeated or extended solitary confinement constitute more danger to our communities than those who are treated with human dignity – as everyone deserves.

Please pass the Mandela Act, SB0459. My son was incarcerated three years ago: not in solitary, but close enough. For me this is a moral issue and it is also deeply personal. Our current situation is embarrassing and inhumane. Think beyond our prison walls: Passage of the Mandela Act is important for the safety of Maryland families and communities – your constituents -- to which our incarcerated citizens will one day return.

³ <https://www.britannica.com/topic/solitary-confinement>

SB459.pdf

Uploaded by: Mary Pizzo

Position: FAV



NATASHA DARTIGUE

PUBLIC DEFENDER

KEITH LOTRIDGE

DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN

CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD

ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: SB 459 The Mandela Act

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 03/08/2023

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 459.

It is well documented that the psychological effects of solitary can be severe. Depending on the circumstances, effects can include anxiety, depression, anger, cognitive disturbances, perceptual distortions, obsessive thoughts, paranoia, and psychosis. Indeed, psychological stressors such as isolation can be as clinically distressing as physical torture.¹ In terms of physical ramifications, isolation has risks of morbidity and mortality comparable with those associated with smoking, obesity, sedentary lifestyle, and high blood pressure.² For vulnerable individuals, the effects can be even more devastating. In the Maryland Correctional Services Article “restricted housing” or more accurately, solitary confinement means “a form of physical separation that has not been requested by the inmate in which the inmate is placed in a locked room or cell for approximately 22 hours *or more* out of a 24-hour period.” (Emphasis supplied).³

Individuals can be relegated to restricted housing for extended lengths of time or in repeated succession. Special consideration for vulnerable individuals is lacking. Yet, remarkably, there are no comprehensive statutory or regulatory guidelines for the administration of restricted housing procedures within the Division of Correction. In fact, the definition of restricted housing

¹ Solitary Confinement and Mental Illness in U.S. Prisons: A Challenge for Medical Ethics; Jeffrey L. Metzner and Jamie Fellner, *Journal of the American Academy of Psychiatry and the Law Online* March 2010, 38 (1) 104-108.

² American Psychiatry Should Join the Call to Abolish Solitary Confinement; Kenneth L. Appelbaum, *Journal of the American Academy of Psychiatry and the Law Online* December 2015, 43 (4) 406-415.

³ Md. Code Ann. Corr. Serv. Art. 9-614.

itself appears only in the portion of the statute requiring the DPSCS to issue an annual report on the use of restricted housing in the Division of Corrections.⁴ That legislative mandate, issued in 2016, showed that the legislature at that time understood that the use of restricted housing requires serious consideration and oversight. This bill builds on those concerns and provides real guidance for managing individuals placed in any type of restricted housing.

Most importantly, the bill provides for necessary training for all correctional personnel involved in the supervision and care of individuals placed in restrictive housing, including training necessary for personnel to understand the ramifications of their actions and the effect it could have on already vulnerable people. Certainly, the safety and well-being of staff, as well as those incarcerated, is benefitted by this. Those in opposition to this bill proffer that restricted housing contributes to the safe and orderly operation of correctional facilities when used “carefully and properly.” Without proper training, without standards, how are correctional staff to know what it means to “carefully and properly” impose restrictive housing sanctions? If there is current training available, it can only enhance safety and order to supplement that training with scientifically sound information relevant to dealing with vulnerable populations.

Moreover, according to the most recently available DPSCS Report,⁵ correctional personnel are already engaging in some practices consistent with this bill. For example, the Report states that, [i]t is the policy of DPSCS to never place a pregnant woman on restrictive housing.”⁶ Additionally, the Report specifies that it relies on the same definition for serious mental illness as that set forth in this bill.⁷ This bill serves to codify many of the practices to which the DPSCS Report indicates it already adheres, and assures that those important issues are mandated. Senate Bill 459 does not eliminate the use of restrictive housing altogether. It proposes improved definition, direction, and oversight meant to reduce the real dangers and concerns inherent in the use of solitary confinement.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on Senate Bill 459.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

Authored by: Mary Pizzo, Supervising Attorney, Forensic Mental Health Division

OPD

⁴*Id.*

⁵ DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES Report on Restrictive Housing – Fiscal Year 2021 Fulfilling Reporting Requirements Correctional Services Article, § 9-614, Annotated Code of Maryland December 2021.

⁶ *Id.* at p. 12

⁷ *Id.*

MD Catholic Conference_FAV_SB0459.pdf

Uploaded by: MJ Kraska

Position: FAV



MARYLAND
CATHOLIC
CONFERENCE

March 8th, 2023

SB 459

Correctional Services - Restrictive Housing - Limitations (Maryland Mandela Act)

Senate Judicial Proceedings Committee

Position: Favorable

The Catholic Conference is the public policy representative of the three (arch)dioceses serving Maryland, which together encompass over one million Marylanders. Statewide, their parishes, schools, hospitals, and numerous charities combine to form our state's second largest social service provider network, behind only our state government.

Senate Bill 459 requires hearing officers and personnel involved with the supervision and care of individuals placed in restrictive housing to undergo at least 40 hours of training; establishing guidelines and procedures for the placement of incarcerated individuals in certain types of restrictive housing or disciplinary segregation; and requiring each correctional facility to create a monthly report containing certain information about individuals placed in restrictive housing and to publish the report on the facility's website.

Pope Francis has equated punishment involving external isolation to a form of "torture." He denoted that states should not be "*allowed, juridical or in fact, to subordinate respect for the dignity of the human person to any other purpose, even should it serve some sort of social utility.*" (*Address of Pope Francis to the Delegates of the International Association of Penal Law, October 2014*)

The Church upholds that systems of criminal justice should seek both justice and mercy, with an emphasis upon restoration of communities, victims and offenders. Restrictive housing is a means toward none of these ends and is a regressive policy. It is thus important that the State of Maryland, at the very least, seriously limit its usage. Regardless of their offense, prisoners are exposed to the perils of incarceration for the crimes they've committed. Solitary confinement only compiles these perils and limits their hope for rehabilitation. Simply the relative isolation of confinement is enough to aggravate existing mental health issues.

The Conference appreciates your consideration and, for these reasons, respectfully requests a **favorable** report on SB 459.

O. Moyd Written Testimony - SB 0459 - Restrictive

Uploaded by: Olinda Moyd, Esquire

Position: FAV



MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities

**RE: Senate Bill SB 0459 – In Favor
Restrictive Housing (Mandela Act)
Written Testimony - Olinda Moyd, Esq.**

The Maryland Alliance for Justice Reform supports a favorable report of SB 0459.

The most critical features of this bill are the mandatory training for staff that interacts with persons on restrictive housing; the establishment of guidelines and procedures for placement in restrictive housing and the mandatory reporting requirements from each facility on a monthly basis.

Because the pandemic has resulted in wide-spread, prolonged restrictive lockdown throughout Maryland institutions, this issue has become even more critical in recent years. As a Prisoner's Rights attorney, I have had the unfortunate experience of witnessing the damage that results from prolonged placement of human beings in solitary confinement AKA restrictive housing. Limiting the use of restrictive housing to 15 days in a 365-day period is critical for the orderly operations of institutions and, more importantly, to limit the impact of isolation on the physical and mental health of the individual subjected to such solitude. Training of staff is critical and transition from solitary is a process worthy of planning and careful orchestration.

The bill also outlines the procedures to be implemented in monitoring when a person is placed in restrictive housing. They are to be provided documentation regarding the basis for the placement; provided an opportunity to contest the restrictive housing placement within 72 hours and every 15 days thereafter; the right to appear and be represented at a hearing; and if the individual disputes the placement as a vulnerable person (typically when a person is isolated "for their own protection") they may request and receive a secondary review of determination. These guidelines and procedures will create structure and standard of expectations so that both the staff and the individuals housed on restriction have the opportunity to state their position and be heard. It will also guard against over use of restrictive housing. Unfortunately, this happens all too often with individuals who the correctional staff stigmatizes as "problem inmates". If a person is difficult to manage – which may range from being non-communicative to being too verbose – it's easier for the staff to place this person in restrictive housing and leave them there. But let's remember that no-touch torture can be as brutal as physical torture.

People subjected to long periods of solitary confinement often experience severe anxiety, depression, suicidal thoughts, and other mental health issues. These

symptoms are further exacerbated in people who already exhibit symptoms of mental illness or impaired mental capacities before the period of solitary confinement began.

Furthermore, Black men and women behind bars are disproportionately impacted by the overuse of solitary confinement. A report by The Sentencing Project concluded that Black women are overrepresented in solitary confinement.¹ They found that among the 40 jurisdictions providing data, Black women constituted 24% of the total female incarcerated population, but comprised 41% of the female restricted housing population. An analysis from the Association of State Correctional Administrators and Yale Law School, concluded that there is a link between race and solitary confinement and that men of color are also overrepresented in isolation.² The Human Rights Council has urged the U.S. to adopt policies and practices for the use of solitary confinement with principles similar to those outlined in this bill – decreasing sensory deprivation, gradual increased interactions and incremental earning of privileges.³

We are all too familiar with the heart wrenching story of Kalief Browder, who, at 16 years old, spent three years on Rikers Island without being charged with a crime. He spent the last 17 months in solitary confinement – the Central Punitive Segregation Unit. Six months after he left Rikers he attempted suicide for the first time on the outside and eventually he succeeded. His family contends that solitary confinement is what destroyed Mr. Browder.

We urge a favorable report on this bill to protect persons similarly situated in Maryland's prisons. Maryland must cease the practice of overusing restrictive housing, properly train staff who interact with individuals on restrictive housing and establish proper safeguard and guidelines for the use of such housing.

Olinda Moyd, Esq.
moydlaw@yahoo.com
(301) 704-7784

¹ Race & Justice news: Black Women Overrepresented in Solitary Confinement, December 16, 2016.

² Liman Center Releases Updated Report on Solitary Confinement, Yale Law School, September 14, 2020.

³ Abuse of the Human Rights of Prisoners in the United States: Solitary Confinement, ACLU.

SB 459.DD Council.Support.pdf

Uploaded by: Rachel London

Position: FAV



Maryland Developmental Disabilities Council

CREATING CHANGE • IMPROVING LIVES

Senate Judicial Proceedings Committee

March 9, 2023

SB 459: Correctional – Restrictive Housing – Limitation (Maryland Mandela Act)

Position: Support

The Maryland Developmental Disabilities Council (DD Council), a statewide public policy organization that studies and analyzes issues that affect people with developmental disabilities and their impact, **supports SB 459 because it specifically prohibits people with developmental disabilities from being placed in restrictive housing.**

WHY is this legislation important?

- **People with disabilities are overrepresented in jails and prisons across the country, but under identified in Maryland.** According to the Bureau of Justice Statistics, people in state and federal prisons are nearly three times as likely to report having a disability as the non-incarcerated population, while those in jails are more than four times as likely. Cognitive and intellectual disabilities are among the most commonly reported: **Prison inmates are four times as likely and jail inmates more than six times as likely to report a cognitive or intellectual disability as the general population.**
 - Maryland does not know how many people with intellectual and developmental disabilities are currently in the State's jails and prisons because Department of Public Safety and Correctional Services (DPSCS) practices and identification of disabilities vary among facilities.
- **Reports and research consistently find that restrictive housing is harmful, especially for individuals with serious disabilities.** In recognition that even short stays in solitary confinement can have severe and long-lasting consequences for people with disabilities numerous national organizations have adopted standards to limit segregation, including the National Commission on Correctional Health Care.
- **Segregation and restrictive housing can prevent individuals from accessing needed programs, treatment, and care which is especially harmful for persons with disabilities.**
- **Maryland overuses restrictive housing.** In FY2021, there were 18,516 prisoners in Maryland, and 8,577 placements in restrictive housing. That is 46% of individuals in DPSCS custody.
 - A 2018 study conducted by the Association of State Correctional Administrators in conjunction with the Liman Center for Public Interest Law at Yale Law School found that Maryland ranked 7th out of 43 responding jurisdictions in their use of restrictive housing for at least 15 consecutive days.
- **There is no requirement to consider disability in disciplinary sanctions.** When people with disabilities do not get the accommodations they need in jail or prison, behaviors can increase, and as a result, disproportionate segregation of people with disabilities.
- **Research shows that decreasing segregation and limiting the use of restrictive housing actually decreases prison infractions.** Colorado banned segregation for prisoners with serious mental illness and intellectual disabilities and offers 20 hours a week minimum out-of-cell time (10 structured, 10 unstructured). From 2015-2016, staff assaults reduced by half, and forced cell entries reduced by 79%.

Contact: Rachel London, Executive Director: RLondon@md-council.org

217 E. Redwood Street, Suite 1300 • Baltimore, MD 21202 • 410.767.3670 • md-council.org

Dee Sapp, *Chairperson* • Rachel London, Esq., *Executive Director*

2023 OPD Testimony for Maryland Mandela Act.pdf

Uploaded by: Sarah McKinley

Position: FAV



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: SB0459 Correctional Services – Restrictive Housing – Limitations (Maryland Mandela Act)

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 03/07/2023

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 0459.

Hello! My name is Sarah McKinley, and I am a student social work intern with the Maryland Office of the Public Defender in Washington County.

Something that is not often considered with individuals in carceral settings is the role that trauma plays in criminal behavior. Adverse childhood experiences (ACEs) are potentially traumatic events that occur before the age of 18. According to the Center for Disease Control (CDC), 61% of the U.S. population has experienced at least one or more ACEs, while 98% of the prison population has experienced at least one or more ACEs. ACEs can have long-term, negative effects on health and well-being, and the toxic stress from ACEs can negatively impact brain development, the immune system, and stress-responses.

I attached a copy of the ACE assessment tool with some background information about how it should be administered. I'm also including a link to a very powerful, short documentary made by the Compassion Prison Project that shows us how lives can be transformed by addressing childhood trauma through increased awareness and compassionate understanding.

<https://vimeo.com/398088783>

According to Dr. Robert Block, "ACEs are the single greatest unaddressed health threat facing our nation." Since I have been an intern with the Office of the Public Defender, I have seen a common preponderance of ACEs and mental illness when performing assessments with our clients. Many people in our carceral system are being punished for having mental illness, which directly correlates with their ACEs; and for that reason, we have some of the most traumatized people in our society inside our jails and prisons.

Because correctional settings serve individuals who bring their traumatized and troubled histories into the jails and prisons with them, the characteristics of confinement can trigger PTSD reactions. This makes it essential for anyone working with incarcerated individuals to be trauma-informed, especially when working with individuals in solitary confinement, so they are able to appropriately address the effects of trauma.

Trauma-informed care (TIC) recognizes and responds to the signs, symptoms, and risks of trauma to better support the health needs of people who have experienced ACEs and toxic stress. TIC is highly compatible with the risk, need, and responsivity (RNR) principles of effective correctional rehabilitation, and is central to the responsivity component, which may be the most important, yet most overlooked of the three RNR principles. TIC provides a sense of safety, empowerment, trust, and respect in service settings, and is beneficial to everyone. The overall use of TIC can improve safety for the correctional setting and in the community upon one's reentry.

The UN considers solitary confinement to be torture. It has been reported that the psychological effects of solitary confinement are equivalent to physical torture. More than 150 years of research in psychiatry, psychology, criminology, anthropology, and epidemiology has documented the detrimental effects of solitary confinement on mental health and well-being that can lead to serious and lasting psychological damage. Physical and social isolation, combined with sensory deprivation and forced idleness, create a toxic combination associated with a variety of harmful effects.

As lawmakers, it us up to you to make the best decisions that provide the most beneficial outcomes for the individuals and communities you represent. The reforms outlined in the Mandela Act that will bring Maryland in line with the rest of the world.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on Senate Bill [0459].

Sarah McKinley

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

**Authored by: [Sarah McKinley, Student Social Work Intern,
sarah.mckinley@maryland.gov]**

MCPA-MSA_SB 459-Restrictive Housing Limitations (M

Uploaded by: Andrea Mansfield

Position: UNF



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable William C. Smith, Jr., Chair and
Members of the Judicial Proceedings Committee

FROM: Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee
Natasha Mehu, Representative, MCPA-MSA Joint Legislative Committee

DATE: March 8, 2023

RE: **SB 459 – Correctional Services – Restrictive Housing Limitations (Maryland Mandela Act)**

POSITION: OPPOSE

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE SB 459**. This bill sets severe and dangerous limitations on a correctional manager's ability to use restrictive housing.

Restrictive housing is a tool that when carefully and properly used contributes to the safe and orderly operation of a correctional institution. Correctional officials do not make the decision to use restrictive housing lightly. Not only is the decision to use restrictive housing made in compliance with state and federal laws and professional best practices, but it is also made with the consideration of the individual inmate's mental and physical health, hygiene and recreation needs, and access to healthcare. Officials always start with the least restrictive means of housing to protect the inmate, fellow inmates, and correctional officers.

SB 459 sets constraints on the use of restrictive housing that significantly threaten the safety and welfare of inmates and correctional staff. The bill imposes arbitrary definitions, onerous administrative requirements, expensive training, and unreasonable restrictions. For instance, the definition of "serious mental illness" is not in alignment with the clinical definition found in the American Psychiatric Association's DSM-5 (Diagnostic and Statistical Manual of Mental Disorders). Additionally, the definitions of "restrictive housing" and "vulnerable individuals" are overly broad and ill-defined for the circumstances. Limitations on the number of days an individual can be placed in restrictive housing and the limitations on the use of "disciplinary segregation" are unnecessarily extreme. The blanket prohibition on the use of restraints on individuals in restrictive housing is unsafe. These definitions and restrictions do not fit the realities and necessary safeguards taken by correctional professionals when imposing restrictive housing.

While well-intentioned, proponents may misunderstand what constitutes restrictive housing in local jails and prisons which is often negatively and incorrectly portrayed in the media. MCPA and MSA condemn the bad actors that cause distrust and disproportionate limitations on restrictive housing overshadowing its legitimate and necessary uses.

It is very concerning that the requirements in this bill do not allow correctional managers to make restrictive housing decisions in accordance with industry best practices or with flexibility for the specific risks and circumstances they face. It is dangerous to severely limit the responsible use of restrictive housing imposed for the safety of the inmate and others in correctional facilities. For these reasons, MCPA and MSA **OPPOSE SB 459** and request an **UNFAVORABLE** Committee report.

MCAA SB 459 Letter Restrictive Housing.pdf

Uploaded by: Mary Ann Thompson

Position: UNF



SB-459
Restrictive Housing-Limitations

MCAA Position: **OPPOSE**

TO: Judicial Proceedings Committee

DATE: January 31, 2023

FROM: MaryAnn Thompson, President
Brandon Foster, Legislative Committee
Lamonte Cooke, Legislative Committee

The use of restrictive housing has long been recognized as a legitimate measure to ensure the orderly operation and safety of correctional institutions. The limitations of the use of restrictive housing outlined in this bill are extraordinarily dangerous and would lead to serious risk of life and limb to all persons working, or confined, in a correctional facility. Never has there been a bill that proposes more intrusiveness into the management of jail/prison operations. Correctional managers' primary duty and responsibility is to provide for the safety and welfare of inmates and employees. The use of restrictive housing is essential to accomplishing that. If this bill were to become law, it would limit correctional managers' decision-making ability and would cause them to be deliberately indifferent to certain risk factors.

There are several specific, problematic issues we have identified in this bill:

- It mandates very time consuming and expensive training for personnel who supervise or care for individuals in restrictive housing;
- It inappropriately and arbitrarily redefines "restrictive housing";
- It gives arbitrary definition to "Serious mental illness" which does not align with the clinical definition in the DSM-5 (Diagnostic and Statistical Manual of Mental Disorders), American Psychiatric Association;
- It gives arbitrary, subjective definition to "Vulnerable individuals" and prohibits their placement in restrictive housing for any reason;
- It requires burdensome administrative requirements, and notifications, for placing in individual in restrictive housing;
- It restricts the number of days an individual can be placed in restrictive housing to no more than 15 days in a 365-day period;
- It places extreme limits and restrictions on disciplinary procedures and the placement of an individual in "disciplinary segregation";

- It prohibits the use of restraints on individuals placed in restrictive housing, which in many instances would be extremely unsafe; and
- It requires unnecessary submission of certain reports to the General Assembly, some of which are already submitted to the Governor's Office on Crime Control and Prevention in accordance with law.

Contrary to the false narratives of many advocacy groups, managing officials of jails and prisons in Maryland **DO NOT** place individuals in dark dungeons and leave them there to deteriorate indefinitely. Decisions to place individuals in restrictive housing are very carefully made, and the least restrictive means are always considered. These decisions are made in accordance with law, State regulations and standards, and best practices. Managing officials give great consideration to physical and mental health of all inmates, especially those placed in restrictive housing, and policy and procedures emphasize the importance of hygiene, recreation, and access to medical and mental healthcare.

The Maryland Correctional Administrators Association strongly opposes this bill and respectfully requests this committee for an unfavorable report on HB-385.

MCPA-MSA_SB 459-Restrictive Housing Limitations (M

Uploaded by: Natasha Mehu

Position: UNF



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable William C. Smith, Jr., Chair and
Members of the Judicial Proceedings Committee

FROM: Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee
Natasha Mehu, Representative, MCPA-MSA Joint Legislative Committee

DATE: March 8, 2023

RE: **SB 459 – Correctional Services – Restrictive Housing Limitations (Maryland Mandela Act)**

POSITION: OPPOSE

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SB 459 sets constraints on the use of restrictive housing that significantly threaten the safety and welfare of inmates and correctional staff. The bill imposes arbitrary definitions, onerous administrative requirements, expensive training, and unreasonable restrictions. For instance, the definition of "serious mental illness" is not in alignment with the clinical definition found in the American Psychiatric Association's DSM-5 (Diagnostic and Statistical Manual of Mental Disorders). Additionally, the definitions of "restrictive housing" and "vulnerable individuals" are overly broad and ill-defined for the circumstances. Limitations on the number of days an individual can be placed in restrictive housing and the limitations on the use of "disciplinary segregation" are unnecessarily extreme. The blanket prohibition on the use of restraints on individuals in restrictive housing is unsafe. These definitions and restrictions do not fit the realities and necessary safeguards taken by correctional professionals when imposing restrictive housing.

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It is very concerning that the requirements in this bill do not allow correctional managers to make restrictive housing decisions in accordance with industry best practices or with flexibility for the specific risks and circumstances they face. It is dangerous to severely limit the responsible use of restrictive housing imposed for the safety of the inmate and others in correctional facilities. For these reasons, MCPA and MSA **OPPOSE SB 459** and request an **UNFAVORABLE** Committee report.

MCAA TESTIMONY SB 459 - RESTRICTIVE HOUSING 3-8-20

Uploaded by: PATRICIA SOLLOCK

Position: UNF

**Testimony by Patricia Sollock, AA Detention Facilities, MCAA
Submitted to Senate Finance Committee
Hearing, February 28, 2023
Regarding SB 459
POSITION: OPPOSE**

My name is Patricia Sollock. I have nearly 40 yrs. experience as a mental health provider and have been Mental Health Director of two jails in MD, including Anne Arundel's where 35% of the population has major psychiatric disorders.

Throughout my career, I have advocated for the humane treatment of this population in hospitals because they refuse treatment and cannot be stabilized in jails. Restrictive housing is our only management option to ensure their and everyone's safety.

I join MCAA in opposing SB 459 for the following reasons:

1. Lacks understanding of the population in restrictive housing
2. Ignores unintended consequences

Population in Restrictive Housing:

- Chronic/ severely mentally ill: poor judgment, exhibit delusions/hallucinations, lack insight and refuse treatment
- Hygiene poses a health hazard: smear or throw feces or urine onto others, drink toilet water.
- Medical conditions can become life-threatening when treatment for diabetes, kidney, or cardiovascular disease is refused.
- Require in-patient treatment to stabilize but MDH hospital admissions take up months.
- Can be violent, vulnerable, or engage in self-harm or suicide attempts. They do not respond to logic: Example of a man's recent note to the psychiatrist: "I crave male genitalia, want to eat flesh and I am going to kill them all". Where do you house this person?

Unintended Consequences of SB459

- If not in restrictive housing one /one supervision is imperative for everyone's safety. Jails do not have the resources for this supervision.
- Assaults or self-harm incidents would also increase; thus liability, lawsuits, etc.
- Individuals could acquire additional charges for assaults resulting in lengthier incarceration.
- Healthcare providers have autonomy to recommend restrictive housing if clinically indicated. Interfering with their practice would result in provider resignations. This would be catastrophic since almost 50% of inmates are under psychiatric care and provider recruitment in jails has become increasingly difficult.

By delaying immediate access to hospital treatment, Maryland demonstrates deliberate indifference towards the wellbeing of this ADA protected population. We must focus on fixing a broken MH system instead of displacing the responsibility of providing hospital-level care unto jails where our sickest citizens end up incarcerated for crimes committed as a result of the very illnesses that they cannot get treatment for while in the community and even less while incarcerated. Jails are not psychiatric hospitals; thus, restrictive housing becomes our only safe management option for this population.

SB0459-JPR_MACo_OPP.pdf

Uploaded by: Sarah Sample

Position: UNF



Senate Bill 459

Correctional Services – Restrictive Housing – Limitations (Maryland Mandela Act)

MACo Position: **OPPOSE**

To: Judicial Proceedings Committee

Date: March 8, 2023

From: Sarah Sample

The Maryland Association of Counties (MACo) **OPPOSES** SB 459. The bill creates rigid, and likely unrealistic, limitations on the use of restrictive housing, seemingly applying the same standard to the State’s largest facilities and the smallest of county jails.

No warden takes the decision to use restrictive housing lightly. In a large-scale state-run facility, there may be multiple options to consider in managing difficult inmate cases. However, in county detention centers and jails – frequently orders of magnitude smaller in physical space than state facilities – such options may simply be unavailable due to physical space considerations. SB 459, however, holds both facilities to the same standard.

Specifically, there are three areas that concern counties greatly. The required management prescribed in the bill for a broadly-defined “vulnerable individual” could require significantly more space in many correctional facilities that do not have the room to fulfill the requirements. Many jails are simply not outfitted to deal with that number of inmates needing special treatment outside of the general population. Second, the requirement for a more than 100% increase in training hours for what is, effectively, the whole corrections staff poses a daunting fiscal burden on counties, further multiplied by the reality that the high turnover rate would require nearly year-round training for onboarded staff. Third, programming requirements for inmates in restrictive housing could pose a worrisome level of danger for the staff tasked with facilitating the programs and services. Taken collectively, the bill’s effect on local jails could be dramatic costs, even higher staff turnover, and perpetual catch-up in training at a time when staff resources are at an all-time low.

Proper protocols should accompany decisions regarding restrictive housing, but those provisions cannot supersede the authority of a warden to maintain order, most often motivated to protect those who would do harm and those in harm’s way. Other states

considering similar legislation, including California, have additionally shed light on similar reforms creating too significant of a safety threat within detention centers. These objections further demonstrate that these types of changes need to be woven carefully into the existing fabric of the detention centers rather than standing in opposition to the realities these facilities face.

While seeking to create a standard of care and a duty to provide practical alternatives to restrictive housing, SB 459 does not take into account the practical effect on smaller facilities in each county. For these reasons, MACo urges an **UNFAVORABLE** report for SB 459.

3 7 23 Opposition SB 459.pdf

Uploaded by: Thomas Reece

Position: UNF



Capt. D. P. Canning
Special Operations &
Homeland Security Bureau

Capt. K.B. Cross
Detention Center Deputy Administrator

Capt. W. B. Parrott
Office of Professional Standards

OFFICE OF THE SHERIFF CALVERT COUNTY

RICKY COX
SHERIFF

LT. COL. DAVE PAYNE
ASSISTANT SHERIFF

Major T. D. Reece
Detention Center Administrator



Capt. R.N. Jones
Patrol Bureau

Capt. T.K. Fridman
Investigations Bureau

Capt. R.V. Naughton
Administrative &
Judicial Services Bureau

SB-459 Restrictive Housing-Limitations

To: Judicial Proceedings Committee

From: Major TD Reece

Administrator, Calvert County Detention Center

Date: March 7, 2023

Subject: OPPOSITION to Senate Bill-459 Restrictive housing-Limitations

Local Jails have no control over who arrives at their door step. They must hold every person ordered held by the Courts regardless of how minor or heinous the crime or their current Medical or Mental Health situation.

A local Jail operates as a microcosm of a community. They are essentially a city within the city.

The state of Maryland has a legal system in place for a reason that is grounded in humanity. Courts, jails and prisons are not in place solely to corral criminals and enforce restitution. They enforce consequences that can lead to changed behavior and new lives. Local Jails provide all sorts of programs and services for those held in our facilities, those who choose to participate, in an effort to begin a positive change. Examples of these programs: GED, Life skills, Parenting, Anger management, Substance Abuse, AA, NA, Religious Services... Genuine change happens in jails and prisons every day. Control and order are absolutely necessary to facilitate these many programs and services offered and to safely and effectively operate a jail or prison.

A simple formula to describe the incarcerated population breaks down something like this:

- 90% of all the inmates held in a local jail are no issue. They know why they are in jail. They accept their situation and will patiently await their court date or expiration of sentence. Some will take advantage of the program and services in an effort to better themselves, other will not. However, they do not want inmates running the facility. They do not want to be threatened, intimidated and or assaulted. They do not want to feel each and every day the stress and the pressure to choose a side for their protection or living conditions. They only want to do their time and not be bothered.
- Approximately 10% of a local jails population wants to continue to operate their hustle or crimes while incarcerated using fear, intimidation or cunning to enact their will over others. They do not like rules and regulations nor are they prone to abide by any.

Detention Center
410-535-4300

Metro Line
301-855-1194

**The Calvert House, 30 Church Street
Prince Frederick, Maryland 20678
410-535-2800**

FAX
410-535-1770

For Hearing and
Speech Impaired
TDD-535-3491

- Within this 10% is 3% that are dangerous. They are dangerous to the other inmates as well as the staff. This 3% of the inmate population desires to be in control, to lead the other 7% in bullying, assaulting, stealing, and intimidating the other 90%.
- One major responsibility of a Correctional Officer's job is to ensure this 3% is not successful.
- When this small segment of the population acts out, no matter the degree, there must be a reaction by the staff. The 90% is watching us. Remember they have to live with these inmates. They know it is our job to ensure a controlled and orderly housing unit. They know we the Staff get to leave at the end of our shift. WE cannot turn a blind eye to the majority of our population that is no problem at all. A sound orderly and consistent disciplinary system, that effectively using restrictive housing, shows our support to the 90% that are not a problem. If the 90% believes that we do care about them and we are leaving them to the mercy of the 10%. Then all 100% become a problem to manage. The facility is inefficient and unsafe for everyone.
- The use of restrictive housing is essential tool available to a Shift Supervisor to protect and reassure the 90% that we do care about them and we do appreciate their appropriate behavior. It encourages them to let us handle the problem inmates through use of the disciplinary process. You do not need to handle the situation on your own. This very restrictive Bill will erode control and result in chaos.

The use of a separate location for inmates to be held while serving their disciplinary sanctions began in the 1990's. I was a young CO in the 1980's. The use of these housing units has had a major positive impact on the overall safety and operations within the facilities and greatly reduced liability. I ask that you support MCAA, the Division of Corrections and all local jails by Opposing SB-459.

SB459 - Restrictive Housing - Limitations (2).pdf

Uploaded by: Jennifer Beskid

Position: INFO



Department of Public Safety and Correctional Services

Office of Government & Legislative Affairs

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STATE OF MARYLAND

WES MOORE
GOVERNOR

ARUNA MILLER
LT. GOVERNOR

CAROLYN J. SCRUGGS
ACTING SECRETARY

CHRISTINA LENTZ
ACTING
DEPUTY SECRETARY
ADMINISTRATION

ANNIE D. HARVEY
ACTING
DEPUTY SECRETARY
OPERATIONS

VACANT
ASSISTANT SECRETARY

JENNIFER A. BESKID
DIRECTOR

BILL: SENATE BILL 459

POSITION: LETTER OF INFORMATION

EXPLANATION: This bill defines restrictive housing, and establishes guidelines and procedures for the placement of individuals on restrictive housing in correctional facilities.

COMMENTS:

- The Department operates the Division of Correction (DOC), the Division of Pretrial Detention and Services (DPDS), and the Division of Parole and Probation (DPP).
 - DOC operates 13 State correctional facilities housing offenders sentenced to periods of incarceration for 18 months and longer.
 - DPDS operates the Baltimore City Pretrial Complex which houses pretrial detainees and incarcerated individuals sentenced to incarceration for periods of 18 months and less.
 - DPP supervises parolees, probationers and those on mandatory release from correctional facilities.
- SB 459 establishes processes and procedures for the use of restrictive housing. The entire bill raises serious concerns and the Department touches on some of the disconcerting aspects below.
- **Correctional Services Article § 9-613.3 of the bill would require that ALL personnel involved in the supervision and care of individuals placed in restrictive housing and ALL hearing officers complete at least 40 hours of training before being assigned to a restrictive housing unit, and shall receive at least 8 hours of additional training annually.**
 - The Division of Correction (DOC) has over 6,000 correctional officers who ensure the safety of the incarcerated population, staff, and the facilities in which

they work. All correctional officers may be assigned to a restrictive housing unit. To provide 40 hours of annual training to ALL correctional officers is estimated to cost approximately \$4.8M in the first year of implementation.

- Although the bill is not clear as to whether or not the hearing officers are hearing officers employed by the Department or hearing officers with the Office of Administrative Hearings, the estimated cost to provide 40 hours of training to the Department's 12 hearing officers is estimated to cost approximately \$20,000 annually.
 - There is also a time factor to consider with developing and implementing training, in addition to the impact on the amount of correctional overtime and staffing that will be required to conduct the training.
- **Moving onto §9-614, the bill defines “restrictive housing” as ANY form of housing that separates incarcerated individuals from the general prison population that imposes restrictions on programs, services or interactions with other incarcerated individuals.**
 - This broad definition would include specialty placement units, and protective custody that incarcerated individuals may request in any of the Department's 13 correctional facilities (including Patuxent Institution) and the five facilities operated by the Division of Pretrial Detention and Services.
 - SB 459 includes a Residential Rehabilitation Unit in the definition of restrictive housing, when in fact, the Department does not have such units.
 - The bill defines serious mental illness (SMI) to include specific psychiatric disorders and aligns the definition with conditions recognized by the federal Bureau of Prisons. Whereas, the Department defines SMI in accordance with the Code of Maryland Regulations (COMAR) 10.21.17.02. The new definition has the potential to increase the number of incarcerated individuals diagnosed with SMI.
 - According to the bill, a vulnerable individual can not be placed in restrictive housing. **As stated, the Department's normal operations involving non vulnerable individuals would raise concerns on the constitutional right to equal protection for all other incarcerated individuals. This would establish two tiers of sanctions for the same infraction based on an incarcerated individual's gender identity, or medical status.**

The Department assigns sanctions solely based on infractions and an individuals' behavior regardless of their sex, race, gender identity, or medical status.

- Furthermore, these restrictions would pose operational challenges to the Department's ability to remain compliant with the Prison Rape Elimination Act (PREA) and the American with Disabilities Act (ADA). The use of protective custody under the bill conflicts with the bill's definition of restrictive housing. The Department could not make decisions to protect the welfare of an incarcerated individual based on whether they were classified by this bill as vulnerable. The separation from threat that is common practice in response to a PREA concern could not be equally applied to 'vulnerable' and non vulnerable individuals under the current language of the bill.
- Under the bill's vulnerable individual definition, an individual under 26 is considered a vulnerable individual and therefore cannot be placed in restrictive housing.
- The population under 26 represented less than 20% of disciplinary segregation placements. However, this group is also associated with elevated risk of noncompliance which continues to be reflected in the recidivism rate post release. Placement on disciplinary segregation following a hearing is an important component of maintaining security in institutions to separate the small portion of this population who commit inmate assaults and major infractions.
- To mitigate the impact of sanctions, the Department instituted internal reforms in COMAR to decrease the length of time spent under disciplinary segregation specifically, to enable the Department to effectuate internal sanctions while also reducing the impact of restrictive housing length on individuals.
- Today, disciplinary segregation is 51% lower than 5 years prior, representing 37 fewer days spent on disciplinary segregation on average. The Department has continued to make progress in reducing the time spent on restrictive housing, which was further reduced by nearly 1 week in the past fiscal year.
- Under the bill, an incarcerated individual may contest the placement on restrictive housing in an administrative hearing within 72 hours of the initial placement and every 15 days thereafter, and be represented by an attorney or an advocate of their choosing. As previously stated, this requirement is not clear as to whether

the administrative hearing would be held at a facility or the Office of Administrative Hearings.

- Moreover, this requirement would not only be extremely burdensome on the Department to implement, it would require many more hearing officers to handle the frequency of hearings creating a significant fiscal impact. Also, having counsel on disciplinary hearings runs contrary to the ability of the Department to schedule them as quickly and possible and will contribute to hearing delays. Allowing an incarcerated individual to choose an advocate of their choice presents serious safety and security concerns.
- SB 459 contradicts itself throughout the bill, as it establishes different standards for how long an incarcerated individual can be placed in restrictive housing, administrative and disciplinary segregation. The bill switches from 15 days to 60 days in a 365 period, then only allows for 3 consecutive days of placement.
- The bill establishes guidelines and procedures for addressing first, second and most serious infractions without defining what constitutes an infraction. The Department has strict policies and procedures in place as to what constitutes an institutional violation, degrees of violations, and depending on the severity of the violation, how it is addressed which may not involve placement on restrictive housing.
- The most alarming requirement in the bill is - if the facility administrator or medical or mental health professional determines an incarcerated individual poses an extraordinary and unacceptable risk of imminent physical harm to the safety or security of other incarcerated individuals or staff, the facility shall provide access to programming and contact with persons other than correctional staff. Individuals who pose such a significant risk should not have access to others due to the safety risk. Some programming can continue in cell.
- Finally, the bill establishes a reporting requirement. However, the Department already submits a comprehensive, data driven mandated annual report on the use of restrictive housing to the Governor's Office of Prevention which is posted on their website.
- SB 459 is extremely prescriptive and seeks to legislate the manner in which the Department conducts daily operations. The bill hinders operations and seriously jeopardizes the safety and

security of the Department's correctional facilities and places its officers, incarcerated individuals, and staff at serious risk.

- **CONCLUSION:** For these reasons, the Department of Public Safety and Correctional Services respectfully requests the Committee consider this information as it deliberates on Senate Bill 459.