

**TESTIMONY IN SUPPORT OF SENATE BILL 908**

**Correctional Services - Restrictive Housing - FAVORABLE WITH AMENDMENTS**

**TO:** Members of the Judicial Proceedings Committee

**FROM:** Center for Criminal Justice Reform, University of Baltimore School of Law

**DATE:** February 23, 2026

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The University of Baltimore School of Law’s Center for Criminal Justice Reform (“the Center”) is dedicated to supporting community-driven efforts to improve public safety and address the harm and inequities caused by the criminal legal system. **The Center supports Senate Bill 908 with amendments.** This testimony is focused on providing critical background and strong support for why legislation to address the harmful misuse and overuse of restrictive housing is urgently necessary in Maryland, in particular to protect vulnerable incarcerated populations currently experiencing rights violations and significant harm.

The prolonged use of restrictive housing under current Maryland law and practice is inhumane, violates international standards, and undermines the rehabilitative purposes of incarceration. International standards, including guidance from the United Nations, recognize restrictive housing placement of 15 days or more as torture.<sup>1</sup> American courts have also recognized the brutality and legal harms of restrictive housing. For example, in *Ruiz v. Johnson*, a federal judge in Texas found that “segregation units are virtual incubators of psychoses-seeding illness in otherwise healthy [incarcerated people].”<sup>2</sup>

In addition to the harm endured by individuals, the overuse of restrictive housing also undermines public safety, in that it unnecessarily wastes resources without making facilities or our communities safer. According to the Interfaith Action for Human Rights, other jurisdictions that have limited the use of solitary confinement have experienced significant cost savings. For example, Mississippi saved \$8 million, and Illinois saved \$26 million after implementing limitations on the use of restrictive housing in 2010 and 2013 respectively.<sup>3</sup> Similarly, California’s Department of Corrections and Rehabilitation budget was projected to decrease by \$28 million after limiting the use of solitary in 2016-2017.<sup>4</sup>

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<sup>1</sup> United Nations, United States: Prolonged solitary confinement amounts to psychological torture, says UN expert, Feb. 2020, <https://www.ohchr.org/en/press-releases/2020/02/united-states-prolonged-solitary-confinement-amou-nts-psychological-torture>.

<sup>2</sup> *Ruiz v Johnson*, 154 F.Supp.2d 975 (S.D.Tex.2001)

<sup>3</sup> Am. Civil Liberties Union, *Stop Solitary: Recent State Reforms to Limit the Use of Solitary Confinement* (2013),

[https://assets.aclu.org/live/uploads/document/stop\\_solitary\\_-\\_recent\\_state\\_reforms\\_to\\_limit\\_the\\_use\\_of\\_solitary\\_confinement.pdf](https://assets.aclu.org/live/uploads/document/stop_solitary_-_recent_state_reforms_to_limit_the_use_of_solitary_confinement.pdf).

<sup>4</sup> Sal Rodriguez, *California Expects to Save \$28 Million By Reducing Solitary Confinement*, Solitary Watch (Jan. 8, 2016),

Senate Bill 908 is also likely to save money, including by decreasing recidivism. In 2022, 135 people were released directly to the community after spending an average of 59 days in restrictive housing. Restrictive housing deprives incarcerated people of the opportunity to engage in rehabilitative, supportive programming designed to prevent recidivism, while also causing and exacerbating mental health challenges such as depression, psychosis and suicidality. Since 2022, the Department of Public Safety and Correctional Services (DPSCS or the Department) has seen an alarming increase in the rate of restrictive housing. According to the Department’s 2024 report, fiscal year 2024 saw the largest single-year increase in restrictive housing in six years; there were 13,910 restrictive housing placements representing a 29.3% increase from the previous year.<sup>5</sup> The average length of stay in restrictive housing was 45 days in our state, well beyond the limits provided by international standards and Senate Bill 908.<sup>6</sup>

As reflected in the protections included in Senate Bill 908, trans incarcerated people in Maryland are disproportionately subjected to violence and rights violations, including the illegal and untenable use of restrictive housing. Our center has partnered with the Trans Rights Advocacy Coalition (TRAC) to detail these violations and related Prison Rape Elimination Act (PREA) violations and the urgency of addressing them, beginning with our joint detailed response to the Department’s 2023 report on the treatment of transgender individuals in its custody, and subsequent joint responses with TRAC each of the following years.<sup>7</sup> A recent national survey by the Vera Institute of Justice found that 89% of transgender respondents in state prisons had experienced solitary confinement at some point during their incarceration.<sup>8</sup> Many of those respondents reported that their placement in solitary was “either because prison staff put them in solitary confinement as a way to harass or target them or because the incarcerated person requested it as a safety strategy.” In Maryland, the Department’s past and ongoing housing placements of trans people in restrictive housing, coupled with its failure to comply with this legislature’s requirements to provide data concerning the placement of trans people in restrictive housing, counsels in favor of a blanket ban prohibiting the placement of trans people in restrictive housing as included in this bill.

Although DPSCS has made recent progress to improve the treatment of incarcerated trans individuals as a result of this oversight, its current policy still states that “[a]ll transgender individuals are housed according to physical genitalia.”<sup>9</sup> This practice violates PREA standard 28 C.F.R. § 115.42, which requires the Department to “consider on a case-by-case basis whether a

<https://solitarywatch.org/2016/01/08/california-expects-to-save-28-million-by-reducing-solitary-confinement/>.

<sup>5</sup> MD. DEP’T OF PUB. SAFETY & CORR. SERVS., *Restrictive Housing Report- Fiscal Year 2024* (2024), [https://dlslibrary.state.md.us/publications/Exec/DPSCS/COR9-614\(b\)\(1\)\\_2024.pdf](https://dlslibrary.state.md.us/publications/Exec/DPSCS/COR9-614(b)(1)_2024.pdf).

<sup>6</sup> *Id.*

<sup>7</sup> Conarck, Ben, *The Baltimore Banner, Are Maryland prisons out of bounds with federal requirements for trans prisoners?*, 22. Feb. 2024, <https://www.thebanner.com/community/criminal-justice/maryland-trans-prisoners-compliance-prea-6MFYNZQ3UZFYJMX34TO4QJEO4E/?bis=article-action-link>

<sup>8</sup> Kelsie Chesnut and Jennifer Peirce, *Advancing Transgender Justice: Illuminating Trans Lives Behind and Beyond Bars* (New York: Vera Institute of Justice, 2024)

<sup>9</sup> Maryland Department of Public Safety and Correctional Services, *Treatment of Transgender Incarcerated Individuals Report*, at 5 (2024). (Because the Report does not include page numbers, “PDF” page numbers are used for citations in this memorandum).

placement would ensure the inmate's<sup>10</sup> health and safety, and whether the placement would present management or security problems” when “deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments.”<sup>11</sup> By housing individuals on this singular basis, DPSCS violates this standard and fails to account for the increased risk of experiencing physical, sexual, and other forms of violence in housing assignments for trans Marylanders. The practical result of the implementation of this standard contributes to the pervasive reality that incarcerated trans Marylanders are disproportionately subjected to restrictive housing for extended periods “for their own protection.”

The Prison Rape Elimination Act limits the use of involuntary restrictive housing for more than 24 hours as a means of protecting incarcerated people who are at high risk of sexual victimization.<sup>12</sup> Trans people are at particularly high risk of sexual victimization; nearly ten times that of the general prison population.<sup>13</sup> Maryland's current practice of placing trans incarcerated people in restrictive housing for their own protection violates human rights standards and federal law. The U.S. Department of Justice also made clear in its 2016 FAQ that a “facility shall not place transgender inmates in involuntary segregated housing without adhering to the safeguards in Standard 115.43.”<sup>14</sup> Despite this directive, the DPSCS's recent reports continue to provide data demonstrating a disturbingly high number of placements in Administrative Segregation.

Civil lawsuits brought by incarcerated and formerly incarcerated trans people in Maryland highlight DPSCS's ongoing neglect and abuse of incarcerated trans individuals in its custody, including specifically the misuse of restrictive housing. The Department entered into three settlements with incarcerated or formerly incarcerated trans individuals in 2024, amounting to approximately \$835,000, more than a third of the settlement dollars paid out by the Department last year.<sup>15</sup> There is an urgent need to protect vulnerable populations, including trans Marylanders, who are at particular risk of being subjected to constitutional, federal and state rights violations – and torture - in Maryland's restrictive housing environments.

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<sup>10</sup> A note on preferred language: The University of Baltimore School of Law Center for Criminal Justice Reform uses human-centered language wherever possible, seeking to avoid dehumanizing terms such as “inmate” or “felon”, except where quoting or requiring citation to statutory language or other source material. Please see “The Language Project” for further information. The Language Project, The Marshall Project (April 12, 2021),

<https://www.themarshallproject.org/2021/04/12/the-language-project/>.

<sup>11</sup> See 28 C.F.R. § 115.42 (2022) (codifying PREA standard 115.42)

<sup>12</sup> See 28 C.F.R. § 115.43(2022) (codifying PREA standard 115.43)

<sup>13</sup> *LGBTQ People Behind Bars: A Guide to Understanding the Issues Facing Transgender Prisoners and their Legal Rights*, Natl. Cent. For Transgender Equality (last visited Jan. 18, 2024).

<sup>14</sup> National PREA Resource Center, *Frequently Asked Questions* (last visited Jan. 18, 2024)

<https://www.prearesourcecenter.org/frequently-asked-questions/does-policy-houses-transgender-or-intersex-inmates-based-exclusively/>.

<sup>15</sup> See 28 C.F.R. § 115.42 (2022) (codifying PREA standard 115.42) Conarck, Ben, The Baltimore Banner, Maryland inches toward reforming trans prisoner policies as it pays out legal settlements, Feb. 15, 2025,

<https://www.thebaltimorebanner.com/community/criminal-justice/maryland-trans-prisoner-policies-04G4GK2B4RCARJEJSZZWTXSDMM/>.

The overuse of solitary confinement is one of the most significant sources of human suffering in Maryland's prisons and jails, negatively impacting the health and wellbeing of not only those who are subjected to it, but the correctional workforce and the communities to which these individuals return. As the General Assembly engages in these crucial reforms, it should similarly consider the need to require that those in restrictive housing be afforded at least four hours of time out of their cells and that programming be made available to such persons.

**For these reasons, the Center supports Senate Bill 908 with amendments, and thanks the sponsors for their work on this important bill.**