

## Committee on Civil Rights Brings Needed Reforms to Light

Each year, the Sections and Committees of the New York State Bar Association undertake projects and produce reports focusing on current topics in their respective areas of the law and suggesting reforms as needed. It is thanks to their extensive research and thoughtful analysis that the Association is able to take well-reasoned positions on a wide variety of important issues involving the law and the legal profession. One recent example of this outstanding work is the report of the State Bar's Committee on Civil Rights, calling for restriction of the use of solitary confinement in prisons throughout our state. The Committee's report was approved and adopted as Association policy by the House of Delegates during our Annual Meeting in January.

In its report, the Committee on Civil Rights provided an overview of the use of solitary confinement in New York state, described the devastating harm such isolation can cause prisoners and contradicted the claim that solitary confinement improves safety or facilitates rehabilitation. In the 18th and 19th centuries, advocates for solitary confinement claimed that it had rehabilitative benefits as a meaningful punitive tool that was also humane. Experience, however, showed solitary confinement to have an extraordinarily degrading impact on prisoners' mental health, and the practice was almost universally regarded as a failure and largely abandoned by late the 1800s.

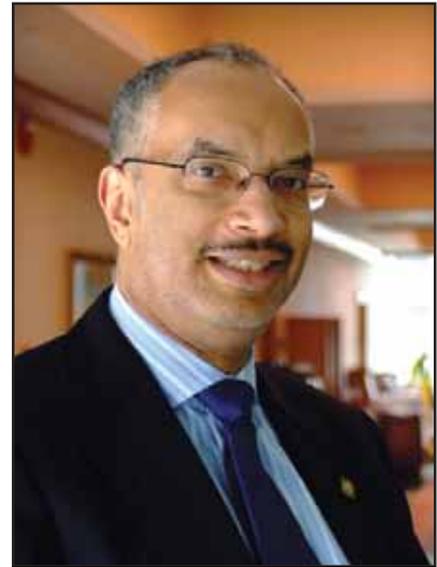
In recent decades, there has been a resurgence in the use of solitary confinement in our correctional system. Today, solitary confinement can be implemented by correction officials for reasons related to disciplin-

ary issues, security or personal safety. Often referred to as "supermax" confinement or "secure housing," solitary confinement is used to isolate problematic inmates from the rest of the prison population.

Solitary confinement typically involves one of two possible settings. Approximately half the prisoners in our state currently placed in solitary confinement are held in single cells of approximately 56 square feet. The other half reside in "double cells" the size of a parking space, which they share with another inmate, deprived of any privacy whatsoever, even when using the bathroom or showering. Prisoners are allowed one hour per day for recreation, which usually takes place in another small cage. Inmates in special housing are restricted from educational programming or other transitional services, not only depriving prisoners of opportunities to rehabilitate themselves, but also creating serious health and safety issues for the communities into which they are released. Each year, approximately 2,000 prisoners are released into our communities directly from solitary confinement.

There is no limit on the amount of time that can be imposed in solitary confinement, and, in the past 30 years, the average sentence to solitary confinement has doubled to 5 months, from 2.5 months in 1983. Approximately 4,500 prisoners are currently being held in solitary confinement in New York state's prisons, with 2,782 of them serving more than one year in secure housing.

The negative effects of solitary confinement have been well-documented. They include emotional breakdowns, chronic depression, uncontrollable



rage, self-mutilation, dissociative episodes, amnesia, hypertension and suicidal thoughts and behavior. According to experts, mental deterioration can begin as early as 10 days into a secure housing sentence. A recent investigative news report found that about one-third of all prison suicides are committed by individuals who are in solitary confinement, a disproportionate amount given that 8% of the total prison population is in secure housing. Further exacerbating this problem is the solitary confinement of especially vulnerable individuals such as the elderly, the mentally ill and juveniles serving sentences in state prisons.

On the other hand, courts, scholars and the international human rights community have acknowledged that long-term solitary confinement is counterproductive to penological goals such as prisoner protection, discipline, rehabilitation and reintegration, and that any benefits it may offer can be achieved through other more humane and productive means. To be sure, correction officials must be permitted to manage problematic inmates, and prisoner separation – which allows officials to remove prisoners without

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## PRESIDENT'S MESSAGE

subjecting them to the physical and psychological deprivation inherent in solitary confinement – is a widely accepted alternative.

The Committee on Civil Rights provides one somewhat counterintuitive illustration of a Mississippi supermax correctional facility called “Unit 32,” which responded to a troubling spike in violence by loosening restrictions. Unit 32 allowed group dining, additional physical activity and access to work opportunities and rehabilitative services. The changes resulted in decreased incidents of violence and a 70% drop in the number of prisoners in solitary confinement. Within three years, so many prisoners were moved from that supermax unit into the general population of other prisons that the facility itself was no longer necessary and was closed – saving taxpayers millions of dollars. Other states are now following this example, and implementing reforms similar to those at Unit 32 in hopes of achieving similar success.

In its report, the Committee on Civil Rights noted that “the security gained by isolating prisoners in long term solitary confinement is largely illusory” and “has yet to be documented in any convincing manner,” while other methods of prisoner separation “are not only adequate, but in some cases more effective at addressing the legitimate concerns of institutional safety,

security and discipline in corrections facilities.”

The report recommended adopting strict standards to ensure that solitary confinement is used only in very limited circumstances. It also recommended that correction officials adopt stringent criteria for separating violent and nonviolent prisoners and set standards for ensuring separation under the least restrictive conditions practicable. The report also calls for identifying inmates who should not be in solitary confinement, reducing the overall number of secure housing unit beds and limiting the duration of solitary confinement sentences to no more than 15 days. Finally, the report calls upon the New York State Legislature to enact measures necessary to restrict the use of solitary confinement and to conduct hearings to examine the harmful effects of long-term solitary confinement. I am pleased that the State Bar has adopted these recommendations as our official policy. We have joined a large and growing number of well-regarded organizations advocating for the restriction of solitary confinement and I look forward to working to advance these important reforms.

This report is a prime example of the importance of the research conducted by the Association’s Sections, Committees and Task Forces. The State Bar brings together experienced prac-

tioners in nearly every practice area, and their substantive work on pressing issues helps to shape and inform the public conversation and allows policymakers to benefit from their extensive expertise.

If you do not belong to a section, committee or task force, I would encourage you to consider becoming more involved with one or more of the Association’s many entities. You can join a practice area- or affinity-based section anytime by visiting the Sections area of the NYSBA website. In addition, we have begun the committee appointment process for 2013–2014, and you may have already received an email from President-Elect David Schraver inviting you to apply to be considered for one of our committees. Many members feel that section and committee involvement is one of the most engaging and rewarding parts of bar association membership. Getting involved can be a great way to meet new colleagues from across the state, to learn from their experiences and to share your knowledge and expertise with others and the public. It is thanks to these collaborative efforts that the New York State Bar Association remains such an influential voice for the legal profession in New York State and beyond, and we are proud and appreciative of all of our members’ terrific work. ■

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