



Working to end solitary confinement
for people with psychiatric disabilities

MHASC

Mental Health Alternatives to Solitary Confinement

NYS Legislative Joint Fiscal Committees

Public Protection Budget Hearing

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Mental Health Alternatives to Solitary Confinement (MHASC), a coalition of more than sixty mental health and prisoners' rights organizations and hundreds of formerly incarcerated people with psychiatric disabilities, family members, and concerned citizens, has worked for more than ten years to end the practice of placing people with mental illness in solitary confinement (known as "Special Housing Units" or "SHU") in New York State prisons.

New York State over-criminalizes behavioral manifestations of mental illness, incarcerates large numbers of people with mental illness in Department of Corrections and Community Supervision (DOCCS) prisons, and fails to provide adequate mental health treatment in prison. Last year the Office of Mental Health (OMH) reported that the number of people receiving mental health services in the state correctional system had grown in absolute numbers.¹ They account for 15.6% of the overall prison population.² This increase occurred at a time when the overall prison population declined to its lowest level in more than two decades.

People with a mental illness have a difficult time while incarcerated, are often not able to control their temper, miss social cues, and end up in solitary confinement (SHU) in numbers far greater than their percentage of the total prison population. The fact that symptoms and behaviors of individuals with mental illness result in prison rule violations should not be dealt with in a punitive manner. The SHU Exclusion Law, which was enacted in 2008 and took effect on July 1, 2011, was an important first step toward ending the torture experienced by people with mental illness confined to a small cell for 23 to 24 hours a day and subjected to social isolation and sensory deprivation. The law requires that people with serious mental illness who could potentially be confined in SHU for more than 30 days be diverted from SHU to a residential mental health treatment unit, except in exceptional circumstances.

The SHU Exclusion Law did not result in a significant decrease in the number of people with mental illness placed in SHU as it should have. As of June 2013, **700 people with mental illness remain in SHU**, where they receive very limited mental health treatment and where they deteriorate often uninterrupted by the OMH clinical staff until the need for psychiatric hospitalization or emergency observation arises. The torturous conditions of 23-to-24-hour isolation which cause psychological damage to individuals with and without mental illness continue in contradiction to the goals of the SHU Exclusion Law to end this cycle of torment.

¹ According to OMH, 8,478 imprisoned people were on the OMH caseload as of July 31, 2013.

² DOCCS reports that 54,235 people were in its custody as of January 1, 2013.

The severe mental pain and suffering caused by solitary confinement led the U.N. Special Rapporteur on Torture to conclude that isolating any person in such conditions beyond 15 days constitutes torture.³ The Special Rapporteur recommended that solitary confinement of vulnerable populations, such as people with mental illness, for *any* time period be abolished.

DOCCS is not unaware of the enormity of the problem in New York prisons. Judge Gerard Lynch of the Second Circuit Court of Appeals, when he was a Judge in the Federal Court of the Southern District of New York presiding over the litigation *Disability Advocates, Inc. v. New York State Office of Mental Health*, stated to DOCCS:

However justified the conditions in SHUs might be as a matter of discipline and security, they almost were guaranteed to worsen the mental condition of just about anyone but certainly those with vulnerable psyches. My one policy aside, and I hope it's something that will get attention at the department of correctional services, is that greater attention should probably be paid to the problem of extremely lengthy SHU confinement even to those who are not mentally ill.

April 27, 2007, transcript at 9 (*DAI v. OMH Settlement Approval Hearing*).

The inclusion of \$3.8 million in the Executive Budget for “updated policies and programs regarding supervision of inmates in Special Housing Units” and the related staff increase of 66 FTEs suggest that DOCCS is prepared to pay *some* attention and take *some* action toward reforming its use of isolated confinement. We are gratified that the administration is attempting to address the problem. However, increased staffing and programming in SHU will not prevent the damage that this toxic environment causes. People with mental health issues and other vulnerable populations must be *entirely* excluded from placement in SHU. SHU (and other forms of isolation such as administrative segregation) for anyone in DOCCS custody should not be of the excessive duration that is the current practice.

The Humane Alternatives to Long-Term (HALT) Solitary Confinement Act (A08588/S06466) is a comprehensive approach to eradicating harmful long-term isolated confinement. The bill requires the creation of rehabilitative and therapeutic units for individuals whose serious misconduct requires that they be separated from the general prison population. In stark contrast to SHU, Keeplock and Administrative Segregation, these secure residential rehabilitation units will offer the programs, therapy, and support needed to address underlying causes of the problematic behavior. The bill completely bans the placement of people with mental disabilities in isolated confinement and limits the maximum amount of time that any imprisoned person can spend in isolated confinement to 15 consecutive days or 20 days total in a 60-day period.

MHASC encourages the legislature to pass the HALT Solitary Confinement Act without delay. Imprisoned people must not be subjected to the torture of solitary confinement any longer.

³ *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, pp. 20-21 available at <http://solitaryconfinement.org/uploads/SpecRapTortureAug2011.pdf>.