National Religious Campaign Against Torture

www.nrcat.org
campaign@nrcat.org
202-547-1920

Testimony of Laura Markle Downton
Director of U.S. Prisons Policy and Program
National Religious Campaign Against Torture
Board of Correction Hearing
December 19, 2014

My name is Rev. Laura Markle Downton, and I am grateful to testify on behalf of the **National Religious Campaign Against Torture (NRCAT)**, a coalition of more than 300 religious organizations committed to ending torture in U.S. policy, practice, and culture. Since its formation in January 2006, representatives from the Catholic, Protestant, Orthodox Christian, evangelical Christian, Buddhist, Hindu, Quaker, Unitarian, Jewish, Muslim, and Sikh communities have jointed NRCAT. Member organizations include denominations and faith groups, national religious organizations, regional religious organizations, and congregations. Whether you refer to it as solitary confinement, "punitive segregation," "the box," or "the bing," — being locked in a cell 22-24 hours a day in U.S. prisons, jails, and detention centers rises to the level of torture under international human rights standards, and violates basic religious values of community, restorative justice, compassion, and healing. It is immoral, and serves no rehabilitative purpose.

As people of faith, we are deeply disturbed that the Board of Correction (BOC) has abandoned its plans to issue rule-making to reduce the use of solitary confinement in New York City. We are gravely concerned about the NYC Department of Correction's request for approval for the creation of 'Enhanced Supervision Housing Units' (ESHU), a highly restrictive housing unit that is punitive, not therapeutic. ***This is a move in the wrong direction***.

The faith-based members that belong to NRCAT are united in opposing treatment that violates our values as people of faith. We join with colleagues across New York and nationwide to work together to bring an end to the torment of solitary confinement, recognizing its consequences are particularly devastating to young people and individuals who enter prison and jail with mental illness, and recognizing that **no one** should be subjected to long-term solitary confinement, a practice that itself ***causes*** mental illness, literally changing the brain chemistry of those subjected to it.

From my own faith tradition, the book of Hebrews 13:1-3 instructs us to "remember those who are in prison, as though you were in prison with them; those who are being tortured, as though you yourselves were being tortured." In this season of Advent, we await the coming of Jesus, who identified himself with those who are imprisoned, saying that what we do to those who are in prison, we do to him. (Matthew 25:34-40)

Highlighting the level of concern from the interfaith community about the use of isolated confinement and the culture of violence within the NYC DOC, in August of this year, NRCAT and T'ruah: The Rabbinic Call for Human Rights[i] co-sponsored an interfaith delegation of thirty clergy and faith leaders to visit the NYC Rikers Island jail complex. Clergy visited solitary confinement units for men and women at Rikers and met with then recently appointed Commissioner Joseph Ponte to discuss the urgent need for treatment interventions and therapeutic alternatives.

At its December 11th meeting, the Executive Committee of the **New York State Council of Churches** adopted a statement against the practice of solitary confinement as it is currently being utilized in NY prisons and jails. All member denominations of the state Council, including the American Baptist Churches, the Presbyterian Church USA, the United Methodist Church, the Evangelical Lutheran Church in America, the Episcopal Church, the Society of Friends (Quakers), the Reformed Church in America, and the United Church of Christ, issued a resolution to "**profess that solitary confinement is immoral, inhumane and constitutes torture under international human rights standards."**

With the recent release of the Senate Intelligence Committee's report on CIA torture, the nation's attention and conscience has been riveted by the immorality of torture of those held in prisons – secret or otherwise.

At the same time, a culture of violence and the use of torture persist in our prisons and jails right here at home, including the Rikers Island jail complex, where more than 700 detainees are held in solitary confinement, a condition recognized as torture by international human rights standards.[ii] About 75% of those incarcerated in the NYC jails system are pre-trial detainees who are being held without being convicted of a crime. Most are there because they cannot afford bail.

The lack of a strong proposal to advance alternative practices to curb the use of isolation in NYC jails is unconscionable and immoral. We are eager to see a robust proposal to address the toxic environment that currently endangers detainees and correctional staff. It is time to acknowledge that torture by any other name is still torture. As we respond with horror to the details of the newly released report on CIA torture, we know that the torture of solitary confinement persists with impunity each day in New York City jails and detention centers.

As reported by the New Yorker, in August of this year, "A report by the U.S. Attorney for the Southern District of New York described the Robert N. Davoren Center [where hundreds of boys have been housed in the Rikers Island jail complex], as a place with a 'deep-seated culture of violence,' where attacks by officers and among inmates are rampant. The report featured a list of inmate injuries: 'broken jaws, broken orbital bones, broken noses, long bone fractures, and lacerations requiring stitches.'"[iii]

Mayor Bill de Blasio has said publicly that ending violence at Rikers is a top priority of

his administration and "a moral obligation."[iv] This causes us to ask **why, then, would the BOC abandon its plans to issue rule-making to reduce the use of solitary confinement in New York City?** Why then would the NYC Department of Correction request approval for the creation of Enhanced Supervision Housing Units, highly restrictive housing that is punitive, not rehabilitative? Where, then, are the plans for minimizing harm and introducing treatment interventions?

The United States incarcerates more of its people than any other nation globally, disproportionately communities of color, the poor, and individuals with mental illness, and confines more incarcerated people to solitary confinement than any other democratic nation. Over the past four decades the United States has engaged in a sentencing and corrections approach that has yielded the largest prison system in the world. Dr. Terry Kupers has stated that solitary confinement is "one logical result of mass incarceration."[v]

The UN Special Rapporteur on Torture, Juan Méndez, stated in his 2011 report that solitary confinement in excess of 15 days should "be subject to an absolute prohibition" based on scientific evidence of its psychological damage. Yet prisoners and even persons detained pretrial in New York City and throughout the U.S. are placed in isolated confinement, and face these conditions for months, years, even decades. Isolated confinement, confinement in a cell for 23 or more hours a day, alone or with another person, fundamentally alters the human brain, leading to irrevocable damage on individuals, families, and entire communities. Supreme Court case law dating back to 1890 warned of the indefensible harm of solitary confinement.

Earlier this year, Rick Raemisch, a former Dane County sheriff and the former head of our Wisconsin Department of Corrections, spent a night in a solitary prison cell in Colorado, where he is now the head of their DOC. He wrote about that experience in an op-ed in the New York Times, and he testified before a U.S. Senate subcommittee reassessing the use of solitary earlier this year. In his testimony, he stated, "By placing a difficult offender in isolation, you have not solved the problem — only delayed or more likely exacerbated it, not only for the prison, but ultimately for the public. Our job in corrections is to protect the community, not to release people who are worse than they were when they came in." Describing his own deterioration in isolation he said, "Eventually, I broke a promise to myself and asked an officer what time it was. 11:10 a.m. I felt as if I'd been there for days. I sat with my mind. How long would it take before Ad Seg chipped that away? I don't know, but I'm confident that it would be a battle I would lose. When I finally left my cell at 3 p.m., I felt even more urgency for reform."

As people of faith and religious leaders, we call for comprehensive reform that reduces violence, ends the torture of isolation, and increases access to successful reentry. These comprehensive reforms include:

- Time limits on solitary confinement sentences:
  No one should be held in isolation for more than 15 days.
- Exclusion of vulnerable populations from solitary confinement and from ESHU:
  Incarcerated people under 25 years old, people with mental or physical

disabilities or serious injuries, and pregnant women should not be placed in solitary confinement or in ESHU.

- Time limits on cell confinement during a solitary confinement sentence:
  Every person in solitary confinement should be, at a minimum, allowed 4 hours out of cell daily, with meaningful access to programs, services, and social activity.
- Limits on reasons for placement in solitary confinement:
  No one should be placed in solitary confinement as punishment for a nonviolent rule violation.
- Creation of an alternative disciplinary system:
  DOC should develop a disciplinary system that provides incentives for positive behavior, offers out-of-cell programming tailored to the individual's needs, and establishes alternative sanctions for behavior that violates nonviolent disciplinary rules.
- Improved Due Process Requirements:
  Before a person can be placed in solitary confinement or ESHU, there should be a hearing conducted by non-DOC staff at which the accused person has representation and an opportunity to present evidence and to call and cross-examine witnesses. There should also be procedures through which an individual can be released from ESHU and moved back into general population.
- Increased training:
  Correction staff who work in solitary confinement and ESHU should receive anti-violence, dispute resolution, and communication skills training as well as training in recognizing signs of psychiatric distress.

---

[i] For more information about T'ruah: The Rabbinic Call for Human Rights, go to http://www.truah.org/issuescampaigns/torture.html

[ii] Schwirtz, Michael, and Michael Winerip, "At Rikers Island, Union Chief's Clout Is a Roadblack to Reform," *The New York Times*, Front Page, December 15, 2014. http://www.nytimes.com/2014/12/15/nyregion/at-rikers-a-roadblock-to-reform.html

[iii] Gonnerman, Jennifer, "Before the Law," *The New Yorker*, October 6, 2014. http://www.newyorker.com/magazine/2014/10/06/law-3

[iv] "What Is Happening at Rikers Island?" *The New York Times*, December 15, 2014. http://www.nytimes.com/2014/12/16/nyregion/what-is-happening-at-rikers-island.html?_r=0

[v] Kupers, Terry, keynote address at the Strategic Convening on Solitary Confinement and Human Rights, sponsored by the Midwest Coalition on Human Rights, on November 9, 2012, in Chicago, Illinois. http://solitarywatch.com/2013/04/24/new-video-dr-terry-kupers-on-solitary-confinement-and-mental-health/