
Committee Meeting

of

SENATE LAW AND PUBLIC SAFETY COMMITTEE

Senate Bill No. 2588

Restricts use of isolated confinement in correctional facilities

LOCATION: Committee Room 10
State House Annex
Trenton, New Jersey

DATE: February 12, 2015
10:30 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Linda R. Greenstein, Chair
Senator Raymond J. Lesniak
Senator Nicholas J. Sacco
Senator James W. Holzapfel



ALSO PRESENT:

Wendy S. Whitbeck
Office of Legislative Services
Committee Aide

Rosa Farias
Fruqan Mouzon
Senate Majority
Committee Aides

Frank Dominguez
Senate Republican
Committee Aide

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LINDA R. GREENSTEIN
Chair

PETER J. BARNES III
Vice-Chair

NICHOLAS J. SACCO
CHRISTOPHER "KIP" BATEMAN
JAMES W. HOLZAPFEL

WENDY S. WHITBECK
Office of Legislative Services
Committee Aide
(609) 847-3870
(609) 777-2715 fax

New Jersey State Legislature
SENATE LAW AND PUBLIC SAFETY COMMITTEE
STATE HOUSE ANNEX
PO BOX 068
TRENTON NJ 08625-0068

**REVISED
COMMITTEE NOTICE**

TO: MEMBERS OF THE SENATE LAW AND PUBLIC SAFETY COMMITTEE
FROM: SENATOR LINDA R. GREENSTEIN, CHAIRWOMAN
SUBJECT: COMMITTEE MEETING - FEBRUARY 12, 2015

The public may address comments and questions to Wendy S. Whitbeck, Committee Aide, or make bill status and scheduling inquiries to Michelle L. McArthur, Secretary, at (609)847-3870, fax (609)777-2715, or e-mail: OLSAideSLP@njleg.org. Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.

The Senate Law and Public Safety Committee will meet on Thursday, February 12, 2015 at 10:30 AM in Committee Room 10, 3rd Floor, State House Annex, Trenton, New Jersey.

The following bills will be considered:

Released/Sca
S-2174
Barnes
Prohibits manufacture, sale, or installation of counterfeit or nonoperational air bags in motor vehicles.

Released/Sca
S-2257
Van Drew
Expands exceptions to minimum age requirement for operating a boat to include nontidal waters.

Released/Sca
A-3465
Andrzejczak/Wimberly

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Released/Sca Limits access to data recorded by motor vehicle recording devices.
S-2433
Madden/Beach
Released/Sca
A-3579 (3R)
Moriarty/Benson/
O'Scanlon/Schepisi

FOR DISCUSSION ONLY:

*S-2588 Restricts use of isolated confinement in correctional facilities.
Lesniak/Barnes

Issued 2/5/15

*Revised 2/11/2015 – S-2588 changed to FOR DISCUSSION ONLY

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SENATE, No. 2588

STATE OF NEW JERSEY

216th LEGISLATURE

INTRODUCED DECEMBER 8, 2014

Sponsored by:

Senator RAYMOND J. LESNIAK

District 20 (Union)

Senator PETER J. BARNES, III

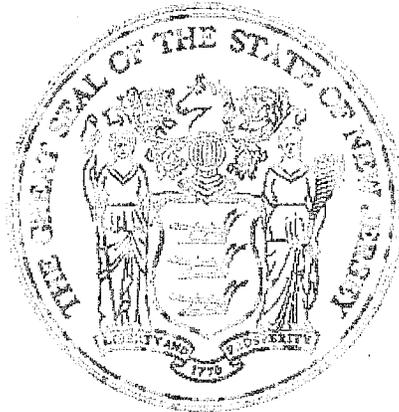
District 18 (Middlesex)

SYNOPSIS

Restricts use of isolated confinement in correctional facilities.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning restrictions on isolated confinement in
2 correctional facilities and supplementing Title 30 of the Revised
3 Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. This act shall be known and may be cited as the "Isolated
9 Confinement Restriction Act."

10
11 2. The Legislature finds and declares that:

12 a. The use of isolated confinement in this State's correctional
13 facilities should be restricted to ensure the safe and humane
14 operation of these facilities, consistent with the New Jersey
15 Constitution, the laws and public policies of this State, the mission
16 of the correctional system, evolving medical knowledge, and human
17 rights standards of decency.

18 b. Isolated confinement should only be used when necessary,
19 and should not be used against vulnerable populations or under
20 conditions or for time periods that foster psychological trauma,
21 psychiatric disorders, or serious, long-term damage to an isolated
22 person's brain.

23 c. The standards established in this act should apply to all
24 persons detained in correctional facilities under the jurisdiction of
25 this State or any subdivision, regardless of the civil or criminal
26 nature of the charges against them.

27
28 3. For the purposes of this act:
29 "Clinician" means a State licensed physician, except if the
30 clinician makes mental health evaluations, the term shall mean a
31 State licensed psychiatrist or psychologist, or an advanced practice
32 nurse or clinical nurse specialist with a specialty in psychiatric
33 nursing.

34 "Commissioner" means the Commissioner of Corrections.

35 "Correctional facility" means any State correctional facility or
36 county correctional facility, and any State, county, or private
37 facility detaining persons pursuant to any intergovernmental service
38 agreement or other contract with any State, county, or federal
39 agency, including, but not limited to, United States Immigration and
40 Customs Enforcement.

41 "County correctional facility" means a county jail, penitentiary,
42 prison, or workhouse.

43 "Emergency confinement" means the isolated confinement of an
44 inmate in a correctional facility when there is reasonable cause to
45 believe that this confinement is necessary for reducing a substantial
46 risk of imminent serious harm to the inmate or others.

1 "Facility administrator" or "administrator" means the chief
2 operating officer or senior administrative designee of a correctional
3 facility.

4 "Inmate" means a person confined in a correctional facility.

5 "Isolated confinement" means confinement of an inmate in a
6 correctional facility, pursuant to disciplinary, administrative,
7 protective, investigative, medical, or other classification, in a cell or
8 similarly confined holding or living space, alone or with other
9 inmates, for approximately 20 hours or more per day, with severely
10 restricted activity, movement, and social interaction.

11 "Less restrictive intervention" means a placement or conditions
12 of confinement, or both, in the current or an alternative correctional
13 facility, under conditions less restrictive of an inmate's movement,
14 privileges, activities, or social interactions.

15 "Medical isolation" means isolated confinement of an inmate for
16 medical reasons, including a mental health emergency or when
17 necessary for preventing the spread of a communicable disease.

18 "Member of a vulnerable population" means any inmate who:

19 a. is 21 years of age or younger;

20 b. is 55 years of age or older;

21 c. has a disability based on a mental illness, as defined in
22 subsection r. of section 2 of P.L.1987, c.116 (C.30:4-27.2), a history
23 of psychiatric hospitalization, or has recently exhibited conduct,
24 including but not limited to serious self mutilation, indicating the
25 need for further observation or evaluation to determine the presence
26 of mental illness;

27 d. has a developmental disability, as defined in subsection b. of
28 section 3 of P.L.1985, c.145 (C.30:6D-25);

29 e. has a serious medical condition which cannot effectively be
30 treated in isolated confinement;

31 f. is pregnant; or

32 g. has a significant auditory or visual impairment.

33 "Protective custody" means confinement of an inmate in a cell or
34 similarly confined holding or living space, under conditions
35 necessary to protect the inmate or others.

36 "State correctional facility" means a State prison or other penal
37 institution or an institution or facility designated by the
38 commissioner as a place of confinement under section 2 of
39 P.L.1969, c.22. (C.30:4-91.2)

40

41 4. a. The use of isolated confinement in correctional facilities
42 in this State shall be restricted as follows:

43 (1) Except as otherwise provided in paragraphs (1), (3), and (4)
44 of subsection d. of this section, an inmate shall not be placed in
45 isolated confinement unless there is reasonable cause to believe that
46 the inmate would create a substantial risk of immediate serious
47 harm to himself or another, and a less restrictive intervention would
48 be insufficient to reduce this risk. Except as otherwise provided in

1 paragraphs (1), (3), and (4) of subsection d. of this section, the
2 correctional facility shall bear the burden of establishing this
3 standard.

4 (2) Except as otherwise provided in paragraphs (1), (3), and (4)
5 of subsection d. of this section, an inmate shall not be placed in
6 isolated confinement for non-disciplinary reasons.

7 (3) Except as otherwise provided in paragraph (1) of subsection
8 d. of this section, an inmate shall not be placed in isolated
9 confinement before receiving a personal and comprehensive
10 medical and mental health examination conducted by a clinician.

11 (4) Except as otherwise provided in paragraph (1) of subsection
12 d. of this section, an inmate shall only be held in isolated
13 confinement pursuant to initial procedures and reviews which
14 provide timely, fair and meaningful opportunities for the inmate to
15 contest the confinement. These procedures shall include the right to
16 an initial hearing within 72 hours of placement and a review every
17 15 days thereafter, in the absence of exceptional circumstances,
18 unavoidable delays, or reasonable postponements; the right to
19 appear at the hearing, the right to be represented at the hearing, an
20 independent hearing officer, and a written statement of reasons for
21 the decision made at the hearing.

22 (5) Except as otherwise provided in paragraph (3) of subsection
23 d. of this section, the final decision to place an inmate in isolated
24 confinement shall be made by the facility administrator.

25 (6) Except as otherwise provided in paragraph (7) of subsection
26 a. of this section and paragraph (3) of subsection d. of this section,
27 an inmate shall not be placed or retained in isolated confinement if
28 the facility administrator determines that the inmate no longer
29 meets the standard for the confinement.

30 (7) A clinician shall evaluate each inmate placed in isolated
31 confinement on a daily basis to determine whether the inmate is a
32 member of a vulnerable population. Except as otherwise provided
33 in subsection d. of this section, an inmate determined to be a
34 member of a vulnerable population shall be immediately removed
35 from isolated confinement and moved to an appropriate placement.

36 (8) A disciplinary sanction of isolated confinement which has
37 been imposed on an inmate who is removed from isolated
38 confinement pursuant to paragraph (7) of subsection a. of this
39 section shall be deemed to be satisfied.

40 (9) Except as otherwise provided in paragraph (1) of subsection
41 d. of this section during a facility-wide lock down, an inmate shall
42 not be placed in isolated confinement for more than 15 consecutive
43 days, or for more than 20 days during any 60-day period.

44 (10) Cells or other holding or living space used for isolated
45 confinement are to be properly ventilated, lit, temperature-
46 controlled, clean, and equipped with properly functioning sanitary
47 fixtures.

1 b. Except as otherwise provided in subsection d. of this section,
2 an inmate who is a member of a vulnerable population shall not be
3 placed in isolated confinement.

4 (1) A person who is a member of a vulnerable population
5 because the person is 21 years of age or younger, has a disability
6 based on mental illness, or has a developmental disability:

7 (a) shall not be subject to discipline for refusing treatment or
8 medication, or for self-harming or related conduct or threats of this
9 conduct; and

10 (b) who would otherwise be placed in isolated confinement shall
11 alternately be placed in a specialized unit, as designated by the
12 commissioner, or be civilly admitted or committed to an appropriate
13 facility designated by the Department of Human Services.

14 (2) A person who is a member of a vulnerable population
15 because the person is 55 years of age or older, has a serious medical
16 condition which cannot be effectively treated in isolated
17 confinement, or is pregnant who would otherwise be placed in
18 isolated confinement shall alternately be placed in an appropriate
19 medical or other unit, as designated by the commissioner.

20 c. An inmate shall not be placed in isolated confinement or in
21 any other cell or other holding or living space, in any facility, with
22 one or more inmates if there is reasonable cause to believe that
23 there is a risk of harm or harassment, intimidation, extortion, or
24 other physical or emotional abuse to that inmate or another inmate
25 in that placement.

26 d. Isolated confinement shall be permitted under limited
27 circumstances as follows:

28 (1) The facility administrator determines that a facility-wide
29 lock down is required to ensure the safety of inmates in the facility
30 until the administrator determines that these circumstances no
31 longer exist. The facility administrator shall document specific
32 reasons why any lockdown is necessary for more than 24 hours, and
33 why less restrictive interventions are insufficient to accomplish the
34 facility's safety goals. Within six hours of a decision to extend a
35 lockdown beyond 24 hours, the commissioner shall publish the
36 reasons on the Department of Corrections website and provide
37 meaningful notice of the reasons for the lockdown to the
38 Legislature.

39 (2) The facility administrator determines that an inmate should
40 be placed in emergency confinement.

41 (a) An inmate shall not be held in emergency confinement for
42 more than 24 hours; and

43 (b) An inmate held in emergency confinement shall receive an
44 initial medical and mental health evaluation within two hours, and a
45 personal and comprehensive medical and mental health evaluation
46 within 24 hours. Reports of these evaluations shall be immediately
47 provided to the facility administrator.

1 (3) A physician, based on a personal examination, determines
2 that an inmate should be placed or retained in medical isolation.

3 The decision to place and retain an inmate in medical isolation
4 due to a mental health emergency shall be made by a clinician based
5 on a personal examination. In any case of isolation under this
6 paragraph, a clinical review shall be conducted at least every six
7 hours and as indicated. An inmate in medical isolation pursuant to
8 this paragraph shall be placed in a mental health unit as designated
9 by the commissioner.

10 (4) The facility administrator determines that an inmate should
11 be placed in protective custody as follows:

12 (a) The inmate may be placed in voluntary protective custody
13 only with informed, voluntary, written consent and when there is
14 reasonable cause to believe that confinement is necessary to prevent
15 reasonably foreseeable harm. When an inmate makes an informed
16 voluntary written request for protective custody, the correctional
17 facility shall bear the burden of establishing a basis for refusing the
18 request.

19 (b) The inmate may be placed in involuntary protective custody
20 only when there is clear and convincing evidence that confinement
21 is necessary to prevent reasonably foreseeable harm and that no less
22 restrictive intervention would be sufficient to prevent such harm.

23 (c) An inmate placed in protective custody shall receive
24 comparable opportunities for activities, movement, and social
25 interaction, consistent with their safety and the safety of others, as
26 are inmates in the general population of the facility.

27 (d) An inmate subject to removal from protective custody shall
28 be provided with a timely, fair, and meaningful opportunity to
29 contest the removal.

30 (e) An inmate who may be placed or currently is in voluntary
31 protective custody may opt out of that status by providing informed,
32 voluntary, written refusal of that status.

33 (5) A member of a vulnerable population shall not be placed in
34 isolated confinement with one or more inmates, except with the
35 inmate's informed, voluntary, written consent.

36
37 5. Within 90 days of the effective date of this act, the
38 commissioner shall:

39 a. develop policies and implement procedures for the review of
40 inmates placed in isolated confinement and submit proposed
41 regulations for promulgation as required by section 6 of this act;

42 b. initiate a review of each inmate placed in isolated
43 confinement pursuant to the policies and procedures developed and
44 implemented under subsection a. of this section; and

45 c. develop a plan for providing step-down and transitional
46 units, programs, and staffing patterns to accommodate inmates
47 currently placed in isolated confinement.

1 6. In accordance with the "Administrative Procedure Act,"
2 P.L.1968, c.410 (C.52:14B-1 et seq.), the commissioner shall
3 promulgate regulations to effectuate the provisions of this act. The
4 regulations shall include but not be limited to:

5 a. Establishing less restrictive interventions to isolated
6 confinement, including separation from other inmates; transfer to
7 other correctional facilities; and any non-isolated confinement
8 sanction authorized by Department of Corrections regulations;
9 restrictions on religious, mail, and telephone privileges, visit
10 contacts, or outdoor and recreation access shall only be imposed as
11 is necessary for the safety of the inmate or others, but shall not
12 restrict access to food, basic necessities, or legal access;

13 b. Requiring training of disciplinary staff and all staff working
14 with inmates in isolated confinement and requiring that this training
15 include:

16 (1) assistance from appropriate professionals in the Department
17 of Human Services to periodically train all staff working with
18 inmates in isolated confinement; and

19 (2) standards for isolated confinement, the identification of
20 developmental disabilities, and the symptoms of mental illness,
21 including trauma disorders, and methods of safe responses to people
22 in distress;

23 c. Requiring documentation of all decisions, procedures, and
24 reviews of inmates placed in isolated confinement;

25 d. Requiring monitoring of compliance with all rules governing
26 cells, units, and other places where inmates are placed in isolated
27 confinement; and

28 e. Requiring posting on the official website of the Department of
29 Corrections of quarterly reports on the use of isolated confinement, by
30 age, sex, gender identity, ethnicity, incidence of mental illness, and
31 type of confinement status, at each facility; these reports shall include
32 the population on the last day of each quarter and a non-duplicative
33 cumulative count of people exposed to isolated confinement for each
34 fiscal year. These inmate reports also shall include the incidence of
35 emergency confinement, self-harm, suicide, and assault in any isolated
36 confinement unit, as well as explanations for each instance of facility-
37 wide lockdown. These reports shall not include personally identifiable
38 information regarding any inmate.

39
40 7. This act shall take effect on the first day of the thirteenth
41 month next following enactment, except the commissioner may take
42 any anticipatory administrative action in advance as shall be
43 necessary for the implementation of this act.

44
45 STATEMENT

46
47 This bill restricts the use of isolated confinement in correctional
48 facilities in New Jersey.

1 The bill specifically prohibits inmates incarcerated or detained in
2 correctional facilities from being placed in isolated confinement
3 unless there is reasonable cause to believe that the inmate or others
4 would be at risk of serious harm, and any less restrictive
5 intervention would be insufficient to reduce that risk. The
6 correctional facility is responsible for establishing the justification
7 for isolated confinement. Inmates may not be placed in isolated
8 confinement for non-disciplinary reasons. Inmates are required to
9 receive a personal and comprehensive medical and mental health
10 examination, conducted by a clinician, before being placed in
11 isolated confinement.

12 Under the bill, initial procedures and reviews providing timely,
13 fair, and meaningful opportunities for an inmate to contest the
14 confinement are required to be made available. The procedures are
15 to include the right to an initial hearing within 72 hours of
16 placement and reviews every 15 days thereafter, in the absence of
17 exceptional circumstances, unavoidable delays, or reasonable
18 postponements; the right to appear at the hearing; the right to be
19 represented at the hearing; an independent hearing officer; and a
20 written statement of reasons for the decision made at the hearing.

21 Except in cases involving medical isolation, the final decision to
22 place an inmate in isolated confinement is to be made by the facility
23 administrator. An inmate is to be removed from isolated
24 confinement if the administrator determines that the inmate no
25 longer meets the standard for isolated confinement.

26 A clinician is required to evaluate each inmate placed in isolated
27 confinement, on a daily basis, to determine whether the inmate is a
28 member of a vulnerable population. An inmate determined to be a
29 member of a vulnerable population shall be immediately removed
30 from isolated confinement to an appropriate placement. Under the
31 bill, an inmate is a member of a vulnerable population if he or she is
32 21 years of age or younger; is 55 years of age or older; has a
33 disability based on a mental illness, a history of psychiatric
34 hospitalization, or has recently exhibited conduct, including but not
35 limited to serious self-mutilation, indicating the need for further
36 observation or evaluation to determine the presence of mental
37 illness; has a developmental disability; has a serious medical
38 condition which cannot effectively be treated in isolated
39 confinement; is pregnant; or has a significant visual or auditory
40 impairment.

41 No inmate is to be placed in isolated confinement for more than
42 15 consecutive days, or for more than 20 days during any 60-day
43 period under the bill. Cells or other holding or living spaces used
44 for isolated confinement are to be properly ventilated, lit,
45 temperature-controlled, clean, and equipped with properly
46 functioning sanitary fixtures.

47 The bill defines isolated confinement as "confinement of an
48 inmate in a correctional facility, pursuant to disciplinary,

1 administrative, protective, investigative, medical, or other
2 classification, in a cell or similarly confined holding or living space,
3 alone or with other inmates, for approximately 20 hours or more per
4 day with severely restricted activity, movement, and social
5 interaction.”

6 The bill provides for certain exceptions to the restrictions on
7 isolated confinement for facility-wide lock downs, emergency
8 confinement, medical isolation, and protective custody.

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(This is an excerpt of the Senate Law and Public Safety Committee Meeting held February 12, 2015, regarding the discussion of Senate Bill No. 2588, which would restrict the use of isolated confinement in correctional facilities.)

SENATOR LINDA R. GREENSTEIN (Chair): Now, the last bill we have today -- that we're not voting on, we're just doing a hearing -- is the very important bill that restricts use of isolated confinement in correctional facilities.

I think we'll take a one- or two-minute break because we feel that Senator Lesniak should be here for this. I know he's at another hearing right now.

(recess)

(return from recess)

Okay, we're all going to reassemble right now in order to hear S-2588.

And I'm just going to read-- Before Senator Lesniak testifies, I'm just going to read off the people who have no need to testify.

Deb Huber, National Organization for Women, in favor, no need to testify; Myrna Fichtenbaum, Princeton New Jim Crow, in favor, no need to testify; Leah Beardsley, Reformed Church of Highland Park, New Jersey, in favor, no need to testify; Sharon Blessman, Reformed Church of Highland Park, in favor, no need to testify; Harry Pangemanan, Reformed Church of Highland Park, in favor, no need to testify; Rosewitha Michiemo, in favor, no need to testify. I hope I'm not slaughtering all the names here. Reverend Karen Hernandez-Granzen, in favor, no need to testify; Roseanne

Scotti, Drug Policy Alliance, in favor, no need to testify; Ali Javadi, Princeton Students for Prison Education and Reform, in favor, no need to testify; Sara Lilja, Lutheran Office of Governmental Ministry, in favor, no need to testify; Abigail Gellman, Princeton University Students for Prison Education and Reform, in favor, no need to testify; Joan Tomlin, Campaign to End New Jim Crow, Trenton Chapter, in favor, no need to testify; Yumiko Mishima, Campaign to End the New Jim Crow, Princeton Chapter, in favor, no need to testify; Carol Gay, New Jersey State Industrial Union Council, in favor, no need to testify; Mary Ellen Marino, Progressive Democrats of America, in favor, no need to testify; Nicole Plett, Building One New Jersey, in favor, no need to testify.

I have Craig Hirshberg -- are you here? Are you wanting to testify?

CRAIG HIRSHBERG: (off mike) No, I submitted--

SENATOR GREENSTEIN: You have no need to testify? Okay.

And one more -- Meghan Beddingfield, Reformed Church of Highland Park, in favor, no need to testify.

And we have Senator Lesniak to testify about his bill.

Thank you.

SENATOR LESNIAK: Thank you, Madam Chair and members of the Committee.

I have to apologize, because I will just be able to make an opening statement, and get back to my Committee that I'm chairing at the present time.

But I want to thank you for listing this bill and to hear the testimony on an issue that has great magnitude throughout the United States of America. Recent studies have shown that isolated or restrictive confinement has grave consequences on public safety, on corrections officers' safety, on other inmates' safety, and on inmates' safety because of the -- particularly when it's for longer than 15 days -- on the mental health and the behavioral aspects of the prisoner for the rest of their term in prison, and when they get out of prison.

And there's a national movement -- and there have been very progressive changes in states like Texas and Mississippi -- that restrict the use of restricted or solitary confinement, particularly with regard to those most vulnerable to be negatively impacted by this restriction: the elderly, the handicapped, and the juveniles.

I've had lengthy discussions with corrections officers -- in addition to the advocates -- with corrections officers, with wardens, with the State corrections administrators, and we will continue those discussions. What we need today is to lay out as much information as possible.

The legislation was tailored to handle the gamut of problems that are associated with solitary or restricted confinement. All those problems certainly do not exist in the State of New Jersey, so it's important for us to see exactly what the problems are -- identified -- that do exist; how the correction institution -- whether they be at the State level or at the county level, juvenile facilities -- policies are both in written form, but also, most importantly, what they are in practice; so that ultimately we can come out with a bill that will protect not only society by reducing acts of violence once people get out of prison -- which are often very much associated with

the mental health issues created by solitary or restricted confinement -- but protect everyone within the prison system as well. That's the goal here; that's the goal that the progressive states of Mississippi and Texas have already-- I'm sorry for joking; I apologize. I'm not running for President, so-- (laughter)

But I thank you for having this discussion. It's an important one. It's a social justice issue, and it's a public safety issue.

So I'm just going to turn it over to the Chair, as should be. We have some very important testimony to hear. Senators, I have to get back to my Committee.

SENATOR GREENSTEIN: Thank you very much. I think it is a very important issue, and I hope in the hearing today we'll be able to piece together what goes on here in New Jersey and try to see what we need. And I'm so glad about your openness to work with all the groups.

SENATOR LESNIAK: Absolutely.

SENATOR GREENSTEIN: Okay. I am going to start with Alex Shalom, ACLU, in favor. And I know this is a big initiative for you, I believe nationally. Is that accurate? So you'd be a great person to ask a lot of the questions.

ALEXANDER SHALOM, Esq.: Please do; I welcome all questions.

Thank you, Madam Chairwoman and members of the Committee; Senator Lesniak. I'm here on behalf of the ACLU of New Jersey. I'm also here on behalf of a coalition of advocates seeking alternatives to isolated confinement here in New Jersey. And I come with a lot of Garden State pride. But notwithstanding that, I'm going to talk

about Mississippi, I'm going to talk about Colorado, and I'm going to talk about Antarctica. Because I think each place teaches us an important lesson about isolated confinement.

Let's start with Mississippi. In their notorious Parchman Farm prison, their most maximum security prison where their death row is located, they had a thousand people in solitary confinement and violence was rampant. And after a particular incidence of violence, they took an unusual tact. Rather than making the security tighter and implementing more restrictions on people, they opened things up. They gave prisoners an opportunity to behave well and have more privileges and more benefits. Ultimately what they were able to do is drive violence down, and they reduced their solitary confinement population by 700 -- from 1,000 to 300 -- and since then, even further reductions. In the meantime, while increasing prison safety, they saved \$5 million. That's lesson one. It teaches us that there are alternatives out there, there are better-- Just because we've been doing something for years doesn't mean it's the only way. There are ways out there that will improve the mental health of the prisoners, the safety of the guards, and the safety of our communities.

And that gets us--

SENATOR GREENSTEIN: Before you go further will you, in your speech, be talking about what some of those methods are? Because I think that's really important -- what are some of the ways to reduce the use of it -- of solitary confinement.

MR. SHALOM: I've submitted lengthy written testimony; it's 6 pages; it has 35 footnotes. In there you'll find some of those things. I don't want to take too much of the Committee's time, but I will tell you

that what we've seen work in other places are two things: One, what the science has recognized is that the longer people are in isolated confinement, the more serious the mental health consequences are. And that's why this bill proposes limitations on the amount of time anyone can spend in solitary confinement -- cognizant of the mental health consequences. And these are well-documented studies, again, referenced in my written testimony.

The other thing is, there are particular populations who are particularly vulnerable to the harms associated with solitary confinement -- most notably among them are young people; developmentally disabled people; and people who are already mentally ill, whose mental illness is exacerbated by the conditions of confinement. So limiting those people at all from solitary confinement is a necessary part of any good reform.

Colorado teaches us another lesson. In Colorado, a truly tragic event happened in 2013 where an already mentally ill person spent a long period of time in solitary confinement -- years. And he was released directly from solitary confinement to the street, with no transitional period into the general population. And upon release from prison he went to the home of the Commissioner of the Department of Corrections and murdered him -- assassinated him on his doorstep. And that caused Colorado to rethink the public safety consequences of locking people in small boxes for long periods of time and then saying, "Good luck to you; reenter society."

So that teaches the lesson that there are serious public safety concerns about not addressing solitary confinement.

And lastly, Antarctica. I don't think they use solitary confinement in Antarctica, but polar explorers, way back when, in

Antarctica realized that the most toxic, the most dangerous number of people to keep in a polar base together was two. Because they would drive each other crazy, and even if they liked each other going in, they would literally be homicidal by the time they were done. And the lesson that teaches us is we can't say, "New Jersey's okay on this, because we put two people in a cell at the same time." Because all the research that teaches us about the harms of solitary confinement tells us that the harms are equally applicable, and sometimes worse, when people are double-bunked.

Now, I know that the bill is up today for discussion only, and I know there are many people who you should hear from, and I'm excited for you to hear some of that testimony. So I'm going to wrap up, but I just want to say we're here, and the time is right. Places like New York, like Pennsylvania, Colorado, and Washington state are considering alternatives to isolation and implementing them. New Jersey should be at the forefront of this. The process is right -- Senator Lesniak has engaged the unions, has engaged the Department of Corrections and the county jails to have a dialogue -- and I think evidenced by the fact that we're having a discussion today rather than a vote. And I think ultimately what we're going to get is a bill that's right; a bill that promotes public safety, promotes the safety of officers, and can save New Jersey money -- all at the same time, being more humane.

Thank you.

SENATOR GREENSTEIN: Okay. It was good to hear definitely what goes on in some of the other states. But a few questions that come out of that -- my first, and the most obvious question, is what do we know about what happens here in New Jersey? Because we are going to

hear today from two groups: some of the prison officials -- actually, several groups of prison officials -- and also the guards who are in the prisons. And they'll have some really in-house kinds of impressions of what goes on in the prisons here.

What do you know; what studies have been done about what goes on here?

MR. SHALOM: That's a terrific question. And actually I had a note that I should address it, and I didn't. So thanks for saving me from myself.

We get a lot of complaints at the ACLU from people in prisons and jails, and some of them deal with solitary confinement, and some of them don't. But I want to urge the Committee to focus on, rather than on anecdotes, data. Don't let anyone -- don't let me, and don't let anyone else come up here and say, "Trust me; this is how it is." Instead, say, "Show me. Show me how it is. If you're telling me mentally ill people don't go into solitary confinement, then show me what the process is to ensure that they don't go in. If you're telling me that when someone displays symptomology of mental illness we let them out, show me how that happens and tell me how many people are in solitary confinement today." Because we have been unable to get that information thus far.

SENATOR GREENSTEIN: You have not been able to see what is really going on in here? You have not gotten those numbers -- because we should get that in this Committee. I would like to see us get that kind of information.

And let me ask you, how do you-- You said something about, it's no good to have two people together in a cell. What's your definition of *solitary confinement*, as you think it happens here in New Jersey?

MR. SHALOM: So my definition of solitary confinement is the one that is contained in the bill; it's also consistent with the one that the Department of Justice uses. So it is to be isolated in a cell or a space similar to a cell for some period of hours -- we use 20 hours at a time; other places use 21 -- but for most of the day, alone or with another person. So obviously you can be in a big room with 20 people. The key on solitary confinement-- The real harm is the deprivation of meaningful human contact. And if you have contact with just the person with whom you're sleeping in the same room as, the conflicts are rife. If you're having conversations and interactions with 5 people, 10 people, the harms are limited.

So we're not suggesting that every person in prison should have free run of the place and be able to have no restrictions on their activity or interaction. There are people for whom there are legitimate safety concerns, who should be restricted, who should be held back in terms of with whom they can interact. But it can't be just with one other person, or zero other people.

SENATOR GREENSTEIN: Do you have -- and I'm saying this to be confrontational in any way -- do you have a number in mind? It shouldn't be one; could it be three people, four people? Do you have some sense of that?

MR. SHALOM: So what we would want to avoid is a situation where what you did was say, "Here's a room for one person or two people.

We're going to put a third person in there, and that will solve the problem." That certainly wouldn't do it. But I think groups larger -- on the order of magnitude of even four or five -- it doesn't have to be a huge number -- do change it. And so if you're getting out of your cell and going into the yard -- which the regulations require people go into the yard -- and there's someone else out there who you can play checkers with or have a conversation about the weather with, that does help alleviate some of the harms -- the mental health harms associated with solitary confinement.

SENATOR GREENSTEIN: I don't have copies of the rules that the prisons go by in terms of how long solitary can be. But what-- Do you have any sense of that? I mean, how long can people be placed? And I'll define solitary -- I'll define it as really being alone. Because I think a lot of times the prisons choose to have people alone in cells -- like, possibly at Trenton State, just about everybody has his or her own cell.

MR. SHALOM: So it varies depending on whether you're talking about State prison, county jail, or juvenile justice facilities.

SENATOR GREENSTEIN: (off mike) Let's start with State prison.

MR. SHALOM: In State prison, there are two major separate issues. One is what's called the *Management Control Unit*, wherein people can go into it indefinitely. There are reviews held quarterly to determine whether the person still needs the Management Control Unit. But people-- Bonnie Kerness, who is sitting behind me, who will testify, can give you testimony of people who were in the Management Control Unit for literally decades on end.

Other than the MCU, what we have is *administrative segregation and lockup*. That is, in other words, you commit an institutional infraction and you are sentenced to a punishment of going into isolation for a period of time. The administrative regulations limit that to 365 days per offense. But if, for example, in the course of assaulting an officer, let's say you also -- another officer says, "Get on the ground," and you refuse to do it, you've therefore refused to obey an order and committed an assault on an officer. That could lead to a two-year stay in administrative segregation.

SENATOR GREENSTEIN: But we don't have any sense of the numbers -- which we should have -- on this Management Control, where they can be in for--

MR. SHALOM: I do, because I had a meeting this morning with the Department of Corrections who indicated, to their credit, that -- I think you've said in the last year -- the numbers had been reduced by 17 people, to 47. That's progress; that's the right direction. We don't doubt it. But the data should be more publicly available, at least to this Committee. And again, there's also-- Two years of administrative segregation is far beyond best practices, and is far beyond the period at which the mental health harms kick in.

SENATOR GREENSTEIN: Okay.

Do you have any questions? (no response)

Okay, thank you very much.

MR. SHALOM: Thank you for your interest.

SENATOR GREENSTEIN: Now I'm going to have some people from the New Jersey Department of Corrections: Deputy

Commissioner Mark Farsi and Special Counsel Melinda Haley -- they say they are opposed to the bill.

DEPUTY COMMISSIONER MARK FARSI: My name is Mark Farsi; I'm Department Commissioner with the New Jersey Department of Corrections. With me is Melinda Haley, Special Counsel to the Commissioner.

If I may, I'd like to read a statement.

Chairwoman Greenstein, Vice Chair Barnes, and Committee members, good morning, and let me begin by saying we appreciate the sponsors for bringing the issue of isolated confinement to the forefront.

We understand that this is a matter of great concern, but it is also one in which the New Jersey Department of Corrections is truly ahead of the curve. We employ sound correctional practices, as recommended by the American Correction Association and the Association of State Correctional Administrators, in the evaluation and monitoring of restrictive housing. We ensure that the mission of our Department -- providing safe and secure correctional facilities for those who have been placed in our care -- is never compromised.

And while we follow the Administrative Code, 10A, to guide us in the proper placement of each inmate, we fully understand that such practices must continually be monitored and updated. For instance, several years ago we began a review of all restrictive housing. This review included an examination of access to medical and mental health services, and resulted in appropriate modifications to the operations of these units. This includes housing an inmate with a cellmate, when suitable, and enhancement of reentry processes back to the general population. In fact,

we believe that isolated housing, in a transitional sense, doesn't exist in New Jersey.

Among our many concerns with the proposed legislation stems from the fact that it would restrict the Department from responding to ever-evolving trends across the field of Corrections. We put in place specific measures designed to transition an inmate from restrictive housing to general population. If I may, I would like to briefly describe how and when we employ restrictive housing.

Temporary close custody indicates a non-punitive removal of an inmate from his or her housing unit. It is primarily used to house inmates who are being investigated for potentially serious infractions. An inmate cannot be held more than 72 hours without an administrator review and approval.

Pre-hearing detention refers to the removal of an inmate from general population pending a disciplinary hearing. Absent extraordinary circumstances, an inmate must have a hearing within three calendar days of placement.

Protective custody is the confinement to a secure unit designated to provide protection to the inmate from potential injury or harm. Placements are validated and preceded by a hearing. In the event of involuntary protective custody, the inmate has the right to appeal the decision of the hearing officer to the administrator. All placements are routinely reviewed.

Disciplinary detention and administrative segregation involve the post-hearing removal of an inmate from the general population to a close custody unit because of disciplinary infractions. The inmate has the

right to appeal the hearing officer's decision to the administrator; and if not satisfied, they may then appeal to the Appellate Division of the Superior Court. All placements are routinely reviewed.

Our Management Control Unit indicates a close custody unit to which an inmate may be assigned if he or she poses a substantial threat to the safety of others or interrupts the orderly operation of the facility. The initial request for inmate placement comes from the administrator and the placement is made by an independent hearing officer. The inmate has the right to appeal to the Commissioner's designee, currently the Special Counsel. They too have the right to appeal to the Appellate Division of the Superior Court. In addition, these placements are reviewed every three months by a high-level Corrections Supervisor.

As I have previously noted, we acknowledge the issues--

SENATOR GREENSTEIN: I just want to ask one question.

DEPUTY COMMISSIONER FARSI: Sure.

SENATOR GREENSTEIN: Before you go further, do we have a copy of this?

DEPUTY COMMISSIONER FARSI: Yes, ma'am.

SENATOR GREENSTEIN: We do? Okay. Just because I want to make sure we have that.

Okay, go ahead.

DEPUTY COMMISSIONER FARSI: As I previously noted, we acknowledge the issues surrounding restrictive housing aren't bound by New Jersey's borders. Rather, the study of these matters is a national trend in the Corrections field, as concerns have arisen as to the psychological impact caused by the inappropriate use of this housing setting.

The Association of State Correctional Administrators, also known as ASCA, recognizes the importance and challenges associated with managing inmates who pose a serious threat to the safe and secure operation of correctional facilities. The use of restrictive housing for these inmates is a necessary tool for correctional systems to ensure a safe environment for staff, as well as inmates.

ASCA has released a number of guidelines to be used as a general framework for dealing with this difficult population. This classification should be reserved for a very small segment of the DOC populations. Although nationally it is known by various names, it is the New Jersey Department of Corrections Management Control Unit which meets the limited definition.

Recognizing the concerns expressed by ASCA and echoed by advocate groups around the country, the New Jersey Department of Corrections, using the ASCA guidelines as a blueprint, conducted a comprehensive review of the MCU. As a result, the Department implemented changes that provided for additional independent review and established a clear process of returning inmates, who are appropriate for general population, back to that setting.

Please allow me to provide a few examples of the kinds of inmates who required placement in the Management Control Unit while on the Capital Sentencing Unit -- which, as you know, was abolished.

A New Jersey inmate killed a fellow death row offender with his bare hands. Before coming to New Jersey from a different state, another inmate caused a hostage situation during which he raped a Corrections employee. Yet another out-of-state offender, now housed in New Jersey,

attacked and viciously beat and stabbed three members of custody staff where he had been incarcerated.

While these are only three examples, it is important to note that out of an inmate population of 21,000, only 47 inmates are currently housed in the Management Control Unit. Newly promulgated procedures provide increased opportunities for an inmate to be released from this Unit. Since enacting these procedures in April 2014, 17 inmates have been released from the MCU. It should be noted that even as these inmates are transitioned to general population, their behavior and progress are closely monitored. Before they are housed in general population, these inmates are afforded similar rights to general population inmates. For example, they have access to medical services and receive regular visits by mental health staff. The inmates have the opportunity to avail themselves to educational services and programming. They also receive visits and, upon appropriate display of adherence to the rules of the unit, are permitted to congregate with other inmates. The goal of this process is to effectively transition the inmates back to general population while taking appropriate measures to ensure the safety of our staff, as well as the inmates.

Our opposition to this legislation stems from our concern that this bill would restrict us from adopting new best practices in the industry with substantial input from such organizations as ASCA and the American Correctional Association. We also believe that the implementation of this bill would be financially prohibitive and would severely limit the Commissioner's ability to appropriately house, based on a case-by-case assessment by qualified correction professionals.

Therefore, the New Jersey Department of Corrections opposes this proposed legislation the way it is written.

SENATOR GREENSTEIN: So what I heard you say is that the main unit of all the different types of isolated confinement that you have -- and you described many different types -- the one that would be closest to being the problem that's defined here today is this MCU, where there are about 47 people. Could you describe -- and it's always a picture would be worth a thousand words here -- but could you describe what it would be like physically, and in terms of contact with other people, in the MCU versus if somebody is placed back into the general population -- what kind of human contact do they have there?

DEPUTY COMMISSIONER FARSI: Leading up to their placement?

SENATOR GREENSTEIN: Well, I'm just asking, how does it differ? What does it look like? If I looked at someone who was in the MCU, what would I see? And then, what would I see with somebody in the general population?

DEPUTY COMMISSIONER FARSI: You would see the same inmate. They're handled differently. Their more restrictive setting would be for escort purposes, would be for housing purposes. They're offered the opportunity to program; and, as we said, we've changed that concept. Moving forward, I would like to say that Alex previously had said we need to get ahead of this. I say that we are the national standard in New Jersey. And the setting would be, if the offender chose to program -- would come out of their cell to program, whether it was a social service program-- They do in-cell education.

SENATOR GREENSTEIN: Do they have contact with other-- Other than professionals in the prison -- people serving them food, a psychologist -- do they have contact with other--

DEPUTY COMMISSIONER FARSI: Yes, when they go out to recreation. I heard a little earlier testimony saying it would be nice if they went out to recreation and had the ability. Yes, they go out to recreation. There are individual recreation pens for separation purposes, and that's necessary for security issues. They are open and free to speak but, at the same time, if you put the two different classifications together that can't match you do run into a safety issue.

SENATOR GREENSTEIN: What I'm hearing is that you're working toward better and better practices here; that, I think, would have an effect -- I'm guessing that that would have a very good effect on the sponsor, and even on the groups.

One of the things I also heard, though, from the ACLU is that we're not receiving -- they're not receiving a lot of the statistics they would want to be able to get a better understanding of what's going on in the New Jersey prisons. Is that something that could be made available?

DEPUTY COMMISSIONER FARSI: Upon request.

SENATOR GREENSTEIN: Okay. Well, that's good.

Now, I guess the other big question I would have is the other jails, not just the State correctional. But once you -- and we're going to hear from county and other levels. Might there be worse conditions and not as good practices in those places -- smaller prisons?

DEPUTY COMMISSIONER FARSI: We govern the prisons. The county facilities are run by each individual county and wardens. We

have an oversight that -- we do go in and do their compliance audit, per se. I would defer to them to speak to their issue. But as far as I could see on the surface, I don't see that they have that big of a problem.

SENATOR GREENSTEIN: One of the things that I was going to talk to the sponsor about is this issue of-- And I know this comes out of some scientific studies about brain development at younger ages, but they're saying that you can't put a younger person or an older person, except in the most extreme circumstances, into anything that you would define as isolated confinement. That takes away a very large group of people -- you know, people under 21, people over 50. Mentally ill people already are treated differently, but the issue, I suppose, is how they're defined as mentally ill. Perhaps the standards are not as good as they should be to identify mentally ill people, because I suspect that many of the people are mentally ill--

DEPUTY COMMISSIONER FARSI: If I may address that, Madam Chair.

SENATOR GREENSTEIN: Yes.

DEPUTY COMMISSIONER FARSI: For mental health reviews, our offender population receives no longer than 21 days -- every 21 days reviews; and it's usually sooner than that.

SENATOR GREENSTEIN: I'm quite sure that now the mentally ill population is treated differently, and better, and everything else. The only issue would be how they're being evaluated. It seems to me, as somebody who actually was a lawyer for the mentally ill for many years -- I've worked with the population -- you need to have people who really know

how to evaluate, and are doing it properly, so that you're not leaving a lot of the mentally ill people in solitary. That's a problem.

But I'm concerned about the ages, because you're taking out large chunks of people who may, indeed, occasionally need to get some special treatment. The big problem, of course -- and you see it in articles, people write books about it -- when you start researching this-- And some of these have to do with New Jersey -- people describe, and maybe some of the people here today will do this -- they describe horror stories about people who are in solitary for years on end, and really are not in good mental state. I mean, if you went into solitary in a good mental state, I'm sure you're not in a good mental state after you've been in there for a while.

Those seem to be the problems we're trying to get at. What we don't know, without statistics, is how prevalent this is. But if it even happens to one person who it shouldn't happen to, it's one too many. That's the problem here -- trying to sort through, making sure that whatever the best practices are they are not hurting these kinds of people, but are taking care of the problem.

DEPUTY COMMISSIONER FARSI: The direction that Commissioner Gary Lanigan has, in his mission, is to ensure that the safety and security -- not only for the staff, but for the inmate population -- is paramount. Programming is significant, and medical and mental health services are also.

SENATOR GREENSTEIN: Well, it may be that other -- many other changes are needed, like better programming and that sort of thing. But the emphasis here is just on the solitary.

But definitely we'll be in touch, because I know we'll want to get more statistics.

Thank you.

DEPUTY COMMISSIONER FARSI: Great; thank you.

SENATOR GREENSTEIN: Oh, does anyone-- Any questions?
(no response)

Okay, thank you very much.

DEPUTY COMMISSIONER FARSI: Ma'am, I'll stay around a little bit. I have another appointment, but I'll be around, if necessary.

SENATOR GREENSTEIN: (off mike) Just, if we could get hold-- I don't know if we-- We may have your testimony here, but we want to make sure--

DEPUTY COMMISSIONER FARSI: Okay.

SENATOR GREENSTEIN: Thank you.

ROBERT NIXON: I'm a repeat offender before this Committee, as you know, in parlance of the issue.

Thank you, Senator. Rob Nixon, Director of Government Affairs in the State PBA. I'm joined by Lance Lopez, who is the President of PBA Local 105 that represents State Corrections Officers in the state.

A broad overview: The State PBA -- about a third of our membership are Corrections Officers at the State or local level. And so what happens with this legislation certainly has an impact, not just in one facility, but in jails and facilities all over the State of New Jersey.

And you write the laws, and the wardens and the Department of Corrections implement the policy. These officers aren't the policymakers, but they have to live with the effects of the policy that's

written here. And we met with Senator Lesniak, and are grateful for, number one, his agreeing to hold this discussion today; and for fostering an environment to have this discussion. He's been very open with us -- that he's interested in what we have to say; and he's always been a friend of the PBA.

Lance is certainly the issue expert here as a Corrections Officer in New Jersey. Generally speaking, this is not-- For us, it's not a philosophical discussion about the right or wrong of solitary confinement. The definitions matter. And it really comes down to a question of the resources available. If solitary confinement -- for those who, in this current environment, need that in one of these facilities, what are the alternatives? What other alternatives are going to be made available in this condition at the State and at the county level? And primarily for us, the officers' safety. There are those inmates who we understand are violent or have a tendency towards violence, and there's nobody who spends more time with them than these officers. And when you consider, especially at the State level, that the State has taken away part of their protection in the sense that they no longer have a sick leave injury program-- So someone in one of these positions who might be segregated today and are told, "Well, you're too old or too young," injures one of our officers -- then they're going to be out of work without a salary for a significant period of time.

And finally, I'd say that sometimes age really doesn't-- You hit or don't hit a certain age, doesn't necessarily mean that you're not capable of doing things that would justify being placed in a confinement situation like we're talking about.

But we're certainly open to continuing the dialogue, but we have extraordinarily practical problems with the bill as its drafted today, as we have expressed with the sponsor. And we would certainly echo what the Department had to say about its ability to write its rules. Certainly you'll hear that from the wardens who are here, or the experts in what they do.

And now I'll turn it over to Lance for some practical analysis.

LANCE LOPEZ Sr.: Good morning, madam Chair and members of the Committee.

Again, I just want to briefly echo some of the sentiments that Rob Nixon has just indicated to you for my members -- for my almost 6,000 members throughout the State of New Jersey who are Corrections Officers who work in these facilities. Not too often does the union and the Department agree on many things. And this is one of these issues that I think we both have some serious, serious concerns.

There is absolutely, with this bill, no clear definition on the word for us. There are two completely different definitions on the word *solitary* confinement. Based on the analogy of the definition that I read in this bill, we have inmates who are in general population who would be categorized as an isolated inmate. That's just not the case. I believe that the procedures and policies that are in effect now with the Department of Corrections should be sufficient. There's no fiscal note. So when the Commissioner is required to implement some sort of change of policy based on legislation that has been passed, then it should have a fiscal note -- because who is going to give the Commissioner the monies that he needs in order to make sure that he can implement these new procedures?

We have many of our officers who are assaulted daily and yearly frb inmates who will possibly come back out into general population and reassault. And again, our officers are not receiving 100 percent of their salary. We have requested and we have submitted bills to ensure that our officers are paid 100 percent of their salary. And, as of yet, for the last several years, as we have been continuing to try and work with the Legislature to pass these bills to ensure that our officers are safe; that they're working in a good environment; and in the event that they are injured, only in a direct assault from an inmate, that they receive their full salary -- and we receive nothing.

So it isn't vitally important for me to convey to this Committee that we are certainly, certainly an opponent and are not for cruel and unusual punishment. That is not our position. We want these inmates to receive the help that they need. However, I don't believe that this bill is the right bill right now.

I do thank Senator Lesniak for having the discussion with us; there are still some serious, serious concerns about the definition of what isolation is, what solitary confinement is, how inmates are housed, and what kind of or social skills that they have inside these facilities.

Again, I thank you, and if you have any questions--

SENATOR GREENSTEIN: I just want to make a comment, as I'm listening, and I'm sure as I hear from all the other people it'll develop even further.

I don't think anyone in this room is really going to disagree on tortuous, solitary confinement. I don't think anybody is going to say, "I think that's a great idea." I don't think anyone in here wants torture; I

don't think anybody really feels that people should be in solitary for years on end.

There really is an issue about definitions, and perhaps this is one of the things that could change down the road as we're discussing it. Because it does seem like so many of the inmates would fall into this. If you have a prison where most inmates have their own cells -- which I think you indicated happens at Trenton State, a maximum security prison -- you already have people living by themselves. Now, I guess they have a certain amount of interaction with other inmates during the day, and some of those privileges would be taken away if they get very violent. One of the issues, of course, is how long you keep them in there. And you have to have, as I think you discussed, very supportive programs and interventions to make certain that when somebody gets out, if they're only going to be kept in there for a short time to just get through the violent period, when they come out they're not just watched, but they're helped, essentially, in some way; that there is some program to make sure that they're not going to immediately reoffend and get back in there. There is always a handful who will reoffend, no matter what.

But for a lot of the other people, I suspect it's a matter of the psychological problems and other things that they face -- that they're in a situation where they may reoffend. But nobody wants anybody to be tortured. So I think what's really important here is for us, all of us, to see the statistics from the prisons of who's in there, what gets them into solitary, what is the treatment they're getting. We need a lot more information from the prisons to be able to know what's really happening in there.

You certainly can tell as well as anybody, because you're in there. You see things. Is it your impression that lots of people are kept in there for months or years on end? Do you have a lot of people in that category?

MR. LOPEZ: Again, if we're talking about what my definition of *solitary confinement* is as opposed to this bill and what their definition -- I see two separate definitions. And my definition of solitary confinement is in a complete box; complete box that is closed off to everyone. No communication with absolutely no one -- other than receiving your meals and a little bit of light when someone is checking to see if the person is still alive.

Well, in New Jersey, as the Deputy indicated earlier, I believe that New Jersey is ahead of the forefront. And I believe that they have the national -- accept the national standards. There is just no way that I see-- And we're talking about the one maximum security prison in the State of New Jersey, which is New Jersey State Prison. So if that's the only maximum security facility -- where I've worked for years -- then if I haven't seen it in that facility, it can't be happening in any other facility throughout the state -- which have minimum units that have some sort of administrative segregation or lockup units, as indicated earlier.

MR. NIXON: And Senator, if I can just add -- and again, I don't want to step on the counties' toes, but we've heard from our officers at the county level that we're dealing with individuals who may have mental health violence -- or mental health issues who may be prone to violence. And there is no place to send them. There's no room at the psychiatric facility; there are healthcare workers, but perhaps there's not the total

resources available. And a confinement situation is the safe thing for them and for the officers. And we just had somebody testify yesterday dealing with somebody who was seriously injured trying to restrain somebody in that situation -- for their own safety, and was injured. And the only place to take them was that situation. We're not looking in the past; you're looking at how this is going to impact that in the future. And if the resources aren't provided to the State or to the counties, then it falls on the officers. And that's what we need to be very careful -- that we're not having a philosophical debate that ends up getting one of these guys injured.

So I appreciate it.

SENATOR GREENSTEIN: It's critical; that's definitely an important part of this as well.

Do you have any questions? (no response)

Okay, thank you very much.

MR. NIXON: Thank you.

SENATOR GREENSTEIN: The next person I am going to call is Reverend Charles -- I think it's Boyer, National Religious Coalition (*sic*) Against Torture in New Jersey, in favor.

REVEREND CHARLES F. BOYER: Thank you, Madam Chair.

Thank you, distinguished members of this Committee, for the opportunity to speak on behalf of the religious communities in New Jersey that support an end to the prolonged isolation of incarcerated people.

Moreover, I am grateful to Senators Peter Barnes and Ray Lesniak for their bold support and sponsorship of S-2588. I urge this Committee to vote yes on this bill on behalf of the New Jersey Chapter of

the National Religious Campaign Against Torture, a coalition that believes in the inherent value and dignity of all persons.

The U.N. 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 in New Jersey are placed in isolation for months, years, even decades.

Isolated confinement in a cell for 22 to 24 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. Roughly 95 percent of those currently incarcerated will one day return home to our communities. We believe it is a moral imperative these individuals -- our neighbors -- return home prepared to contribute meaningfully with their communities. And while states across the country, including the bordering states of New York and Pennsylvania, are exploring and commending cost-effective alternatives to isolation, New Jersey continues to resist efforts to reform solitary confinement in its prisons, jails, and detention centers.

For the last several years, we have been reaching out to congregations and faith leaders talking about the very real impact of solitary confinement in New Jersey prisons, jails, and detention centers on the mind, the soul, and the greater community. Our coalition has developed an Interfaith Statement Against Solitary Confinement, and we have collected 242 signatures from a wide collection of faith communities across the State of New Jersey, including but not limited to Christian pastors, imams, rabbis,

humanists, professors of theology, and members of community organizations.

As faith leaders in our state, we are deeply concerned by the well-documented racial inconsistencies in the application of justice at nearly every level of the justice system. According to the 2009 Human Rights Watch report, New Jersey is ranked third among all states in its rate of locking up African Americans for drug-related offenses. This disproportionate representation of people of color in New Jersey correctional facilities causes us to infer similar racial imbalance in its solitary confinement population, although we have been denied the current demographic statistics.

Our shared values of social equality and fair treatment, irrespective to race, cause us to flatly denounce the racist application of justice found not only in the seizure and sentencing process, but present in the housing and classification of incarcerated persons.

I am a pastor in the African Methodist Episcopal Church, and as such I am committed to the values of justice and healing. I recommend to you the research and public testimonies that my colleagues are sharing with you this morning, but I am also asking that you look deeper -- at the moral imperative to act justly, to love mercy, and to live humbly with God and with our neighbors. It is with this confident hope that we, the people of faith and moral conscience in New Jersey, urge you to vote yes on S-2588, that we might look forward to a brighter future where these principles of justice, mercy, and mutual respect guide our correctional policies.

Thank you.

SENATOR GREENSTEIN: Thank you. Thank you so much. I really appreciate your coming in.

Just one thing I guess I want to say; I probably said it with each speaker who came in. I think what we -- I'm coming to realize, because I didn't know this, I think what-- There is no question about everything you said, morally. Let's just put that aside; it's absolutely true. I think we need to get the statistics and understand what's really going on in these prisons here in New Jersey.

As you said, you used the word *infer*.

REVEREND BOYER: Yes.

SENATOR GREENSTEIN: We can infer that things are happening, but to really know we've got to get those numbers. And according to the DOC people, they will give them to us. So I'm hoping that we can get them as soon as possible so we can know what's really going on and what the conditions are. And maybe they'll even open up the place so people can visit. I think that would be a good idea -- to have people go in and take a look.

REVEREND BOYER: Absolutely, absolutely.

SENATOR GREENSTEIN: I know I'd like to.

REVEREND BOYER: Absolutely.

SENATOR GREENSTEIN: Thank you.

REVEREND BOYER: Thank you so much, Madam Chair.

SENATOR GREENSTEIN: Thank you very much.

(off mike) Okay, Terrell Blount from-- I don't see-- Are you with a particular group?

TERRELL BLOUNT: No, I'm not; not exactly. I'm just here to, I guess, advocate.

SENATOR GREENSTEIN: (off mike) Just you?

MR. BLOUNT: Yes.

So my name is Terrell Blount. I work for NJ-STEP, which is a consortium of universities throughout the State of New Jersey, two-year and four-year colleges and universities. And we provide education -- college education within the prisons for men and women. And those credits are transferable to almost any community college or four-year university once they return home.

My job, specifically, is going into the prisons on a weekly, biweekly basis and meeting with these students and preparing, like, a college track for them so for when they come home I can help them achieve their AA or BA degree, if they choose to.

Prior to that, I worked at the Doe Fund in Harlem, which is a men's homeless shelter. And I'd say about 80 percent of the men who were in that facility experienced homelessness post-incarceration. So they were just released and they had no place to stay. My role as a career development specialist -- I facilitated workshops on job readiness, taught them how to prepare résumés, how to speak in an interview, so on, and so forth.

And I just distinctly remember a gentleman who was just very quiet; and not only that, but he didn't acknowledge my presence. When I would speak to him, "Good evening" -- I greeted each gentleman as they came into the classroom, and everyone would shake my hand -- he would just walk by me. And when I passed out handouts for the lesson during the

night, he wouldn't even take the paper from me. And at first I thought it was disrespect because I just started there; maybe he didn't like the new guy -- whatever the case was. But the gentlemen went on to tell me that he had some serious issues: He did 10 years in the hole on a 30-year sentence.

And once they explained that to me, it made much more sense to me, and I really watched his behavior. And I think it was very disturbing -- for a lack of a better word -- but it was very interesting to me how he operated. And I think that just sets an example of the side effects from solitary confinement.

So I'll continue on my chronological résumé, if you will. So about nine years before working at the Doe Fund, I worked for the Department of Corrections. I worked at Albert C. Wagner, which is a Youth Correctional, and Garden State as well. I didn't have a salary equivalent to the officers or any other staff; I made \$3 a day as an inmate. And I was in administrative segregation for 90 days, and I was given a 180-day sentence. And if you look on the face sheet, it would say, "a weapons charge." And you might think that I created some shank out of a fan blade, or sharpened a pen or something to create a sharp instrument. I simply removed a blade from a razor because I-- We took pictures; they usually have people come in and take pictures for the inmates and you can send them to your family and friends and stuff -- and there was a company that produces duplicates of the pictures. So you send it out with \$20 or whatever and it comes back in sheets, just like they would at Sears or Picture People, or whatever. And I removed a blade from the razor, because I'm not allowed to have scissors; the officers don't have scissors at the desk for you to use, and they probably wouldn't give them to you if they did. So

I removed this blade so I could cut the pictures, and they were sheets of eight. And I put the razor blade back into the large manila envelope with the pictures.

There was a shakedown on the tier that same night. *Shakedown* is when the officers come on the tier and they search for contraband, weapons -- things of that nature. And the officer came into the dayroom, told me to face the wall, and I was cuffed for having that razor blade inside of the envelope with the pictures.

And the reason why I'm emphasizing that situation is because just categorizing that as a weapon I think is too broad. If we looked at each situation, each instance that a person -- if they are breaking a policy or rule inside the prison, if you look at each situation, they would have seen -- like in court line or who I sat before -- that I was clearly just-- I removed the blade, which was wrong. But to get a 180-day sentence in administrative segregation was wrong. I believe that was very unethical. So on top of that, I was 21 years of age at the time. I was removed from a Youth Correctional facility to Rahway. And I was in a cell with a man twice my age; he was well over 40, and I was 21. And I was physically assaulted by this man -- over soap. And because I didn't want to give him a bar of soap, I was put in a situation where I had to defend myself.

And I was removed from there to Bordentown *ad seg* a few days afterwards. I don't know if it was an administrative move, because maybe they realized that I shouldn't have been there. Or, I don't know if he maybe spoke to an officer and said, "We fought; I want him out of there." But he was back there for two years already before I came in there. And who knows how many other cellmates he had, or whatever the case is. But I

shouldn't have been in that situation, period -- to be in a room with an older gentleman who had a lot of time to do, and was already back there for two years. And I was put in the situation where I had to defend myself.

And there are a lot of stories that resemble mine. The charges may differ; situations may differ. But I think I kind of had a better situation than most. Because I've spoken to guys who have done 365 days in ad seg; two years as well. And the aside effects that these men, youth, women experience are very damaging. And many people don't care because they suffer from NMP -- not my problem. And it's not my problem if someone goes through this, because they're not returning to my city; they're not returning to my neighborhood. They're either going to Newark, they're going to Camden, they're going to Irvington -- while I live in Bergen County, or I live in Livingston, or Short Hills. This person isn't coming back to there. They're not coming back to my community.

So a lot of people suffer from that. And I live in the heart of Newark, and I see students who I work with now who come home and they look at me -- they look up to me because of what I've done as far as overcoming the barriers that I face from incarceration. And some may look at me and try to use me as an example and say, "Hey, he did time in solitary, and look -- he's fine." I'm studying to get my master's right now in Public Administration at Rutgers Newark. I also work for Rutgers. But I would definitely consider myself an exception.

I've really had to overcome a lot when I returned home, I think just from the whole prison experience, period. I had to learn and relearn boundaries; you know, social -- the social isolation that I experienced, not only just in ad seg, but in prison, period. It was just a relearning once I

came home. And I can't imagine how much more difficult it is for the men, women, and youth who have to experience harsher circumstances and longer sentences.

I can definitely tell you what its like inside the prisons. You said--

SENATOR GREENSTEIN: I was actually going to ask you; I just want to make sure I understand. You said you were in the JJC at the time that you went into ad seg?

MR. BLOUNT: Not JJC; I was in the Youth Correctional facility, Bordentown and Yardville -- which is Garden State Youth Correctional.

SENATOR GREENSTEIN: Okay. Is that part of the JJC?

UNIDENTIFIED MEMBER OF COMMITTEE: No, it's not.

SENATOR GREENSTEIN: It's part of the prison--

MR. BLOUNT: Yes, those are for young adults.

SENATOR GREENSTEIN: Okay, so--

MR. BLOUNT: I think JJC works with the youth who haven't been waived up or anything.

SENATOR GREENSTEIN: Okay. So you've actually experienced the administrative segregation?

MR. BLOUNT: Yes, I have

SENATOR GREENSTEIN: Can you tell us a little about what it was like, and how it differed from being in a different place? I'm glad to see -- you seem like you've done very well; that's terrific.

MR. BLOUNT: Thank you.

SENATOR GREENSTEIN: As you said, you may be the exception, but I'm glad you did well.

MR. BLOUNT: Thank you.

SENATOR GREENSTEIN: But tell us what you experienced.

MR. BLOUNT: I already explained the situation where I had a cellmate. When I was by myself and I was alone in Bordentown ad seg, I was really -- I don't want to use the word *crazy*, but I was going crazy in there. And it was to the point -- I was just sharing this with my girlfriend the other day because we were arguing over what we were going to watch on TV, and we decided to watch *Scandal* -- so you know who won. (laughter) And Olivia Pope is in the -- she's in captivity, and the guy came back there, and he said something about her being there for three years. And I just sat there, and I said, "I couldn't imagine." And she was like, "What do you mean?" "I can't imagine being somewhere -- in solitary for three years."

And I began to tell her the story that I only served 90 days in ad seg and it was horrible -- to the point that I was begging the sergeant to put me in the building. And he said, "The only place we have beds is Bordentown." And I said, "Put me in Bordentown." Meanwhile, I had a cell that was between two other members of the Bloods gang; both guys on the sides of me were members of the Bloods gang, and they did not want to go into Bordentown because they said Bordentown was that bad; it was that dangerous for them, and they were in the gang. And I'm not a part of any gang. But I wanted to leave administrative segregation that badly, I said I'd rather be around people. If somebody is going to punch me in the face, I'm going to thank that man for punching me, because I need human communication, human contact. I need to socialize with people.

Just imagine being in this room, closed off, for seven days. Imagine being in this room for a week straight without any human contact -- not speaking to anyone. I didn't have any food; I only had the meals that they gave me. And if I was asleep and missed that tray -- good luck to me. We have vents similar to this -- maybe that one square vent -- that was covered in dust. And that produces ventilation issues, respiratory issues for some folks. No mirrors -- so I didn't look at myself for I don't know how long. A window that's maybe about 3 feet tall and 2 inches wide; you can't see anything outside of the windows. Recreation was only once a week, and that's if someone was nice enough to allow us to go. Showers were, maybe, once every two days.

There was no programming for me in the Bordentown ad seg or Rahway; so I have yet to see anything like that. But it was a very trying and traumatic situation and experience. And in just my experience alone, no matter how minute I consider it to be -- again, there are people who experienced way worse circumstances. And this bill is trying to move forward on making better practices in solitary confinement.

SENATOR GREENSTEIN: (off mike) Thank you.

Any questions? (no response)

Nobody?

Okay, thank you very much. We appreciate it.

SENATOR SACCO: Senator, let me just say-- I have an appointment at 2 p.m. in northern New Jersey so I have to leave now to make it.

I'm sure that, at some point, we'll have a bill -- or there has to be some sort of a compromise here, it seems. Were very far apart from the--

There are two different viewpoints on the bill, very far apart. (Indiscernible) say this has to get down to what should be done, okay?

SENATOR GREENSTEIN: What I hear is that definitely something is-- This is what I've heard so far today, and I know we have more people to hear from. Definitely something's going on; we just heard from this young man. There are people who are in bad situations for too long. On the other hand -- I lost my train thought here. We also hear that the prisons seem like they're trying to work on doing better. That's what we heard from the Corrections people. Maybe they're acknowledging it was very bad; they're trying some better practices.

We also don't really know the statistics of how many people go through this, or even worse than what you went through. So we need those statistics. So, so far, I feel like to get it together we just need more information from the prisons about what's really going on in there. And it may be way beyond solitary confinement. There may be a need-- And I'm sure there's a need for better programming, as we just heard from this young man. There are a lot of things that need to be changed to make it humane. But we are hearing some concrete things today.

SENATOR SACCO: I think the sponsors have a lot of work to do.

SENATOR GREENSTEIN: I think so; I think so.

SENATOR SACCO: Thank you.

SENATOR GREENSTEIN: Well, thank you.

(off mike) The next person is Bonnie Kerness from the American Friends Service Committee.

B O N N I E K E R N E S S: Good morning, Madam Chairman, Committee members.

The American Friends Service Committee is a Quaker-based program running the Prison Watch Program in Newark, and has been monitoring conditions -- prison conditions in the United States for over three decades by collecting testimonies in the form of letters, telephone calls, and personal interviews. The correspondences detail various human rights abuses in U.S. prisons, including physical, chemical, and no-touch torture at the local, state, and Federal levels.

The testimony we have received corroborates the November, 2014 report by the United Nations Committee Against Torture, which criticized the United States -- finding that extreme isolation leads to psychic and physical sufferings such as paranoia, anxiety, depression, weight loss, and significant increases in the chance of suicide.

Rather than recite from reports and statistical evidence that condemn this practice as ineffective and costly, I want to share some of the voices writing from isolation units in the jails, prisons, and detention facilities in the State of New Jersey. These are excerpts from our report, *Testimonies of Torture in New Jersey Prisons*, which was just published this week, and each of you should have a copy.

One man wrote, "I take sleeping pills, and I still don't sleep. I'm stressed. I feel as if my government and society have abandoned me. I've grown more detached the longer I'm here. I'm afraid that when I do return to the free world, I won't know how to behave in company."

Another reported that he was deprived of food, sleep, no natural light, and restricted to his cell for 24 hours a day.

Another, “I have endured sleep deprivation, screeching sounds, extreme silence, extreme cold, extreme heat, extreme light, extreme dark, humiliation, a systematic attack on all human stimuli.”

Another, “There are times when my mental state is sound, and there are other times when I am in a deep depression that I’m never going to recover from. For many prisoners, the anger and tension within are so tight they turn into a bitter rage; once exploded, there are usually serious consequences to the individual and others.”

I have had-- Because I’ve been doing this for 30 years, I’ve had many dialogues with officers -- including one who stopped me on the street to talk about his time being an officer in the Northern State Prison gang unit. And what he told me was that he went home one day and jumped off his couch onto his knees so that he would damage his knees and not have to go back. He said the conditions in that particular isolation unit were harmful, he felt, not just to prisoners, but to officers as well.

The first person I ever met, 30 years ago, in isolation in New Jersey was 17 years old. And he kept accruing-- He kept behaving badly, as a 17-year-old would do, and kept accruing time. He ended up spending 10 years in administrative segregation. I work with a volunteer who came out from the Management Control Unit to the streets after spending 22 years in isolation. I challenge my intern students to spend 4 hours in their bathroom -- and they don’t make it.

These testimonies often tell the same story: isolation, decompensation, social and sometimes, physical death. In -- I think it was 2003; and, again, more recently in a Union County juvenile facility, a young man named Eddie Sinclair Jr. hanged himself. And I think that we

have to acknowledge that very much of this is race-based. The only successful litigation on isolation has come because all the people in that unit were African. You cannot give me a reason for this.

The American Friends Service Committee, the Quaker-based organization, is committed to promoting peace with justice. We believe that no correctional practices should involve the violation of human dignity. Only through strengthening the mind, body, and spirit can a person experience positive transformation. It is time that New Jersey led the way in developing alternative strategies to housing and treating prisoners. We fully support and commend S-2588 to this Committee, and eagerly await its passage.

Thank you.

SENATOR GREENSTEIN: (off mike) Thank you very much.

Jean Ross.

J E A N R O S S, Esq.: I have to say good afternoon; I was going to say good morning, Madam Chairman and members of the Committee.

My name is Jean Ross, and I am appearing on behalf of the People's Organization for Progress, which is a Civil Rights organization based in Newark. I've come before this Committee before on other prison-related matters.

And the reason I'm here today is that I have experience, both administrative and on the ground, representing patients in most of the psychiatric hospitals in the state; I'm a mental health lawyer. But for the last 13 years of my alleged retirement I have worked with people in New Jersey's prisons and their families. I wish I had time to tell you all of the

things that I hear in the letters and the calls I receive every day from prisoners and family members.

I just pause to say that one of -- the most moving letters and calls that I get are from prisoners on behalf of other prisoners who have a mental illness. They're asking me to help these other prisoners with mental illness.

We are talking about-- I'm sorry; my testimony that I've given you -- the written testimony -- focuses on the problem of people with mental illness in solitary confinement, and I'm not going to go over all of the arguments that are being made by clinicians, by religious people, by official documents -- starting with the 2006 report, *Confronting Confinement*, by our own New Jersey famous people, Nicholas Katzenbach and the Honorable John Gibbons. In their report on *Safety and Abuse in America's Prisons*, one of their recommendations is that people with mental illness should not be in solitary confinement.

The reason that there has been attention to this particular issue is not only because of mass incarceration but, as you, Senator Greenstein, and other people know, because of the mass transfer, basically, of people who used to be in our large psychiatric hospitals who are now in our prisons. And we know and will hear from people who work in the prisons that the prisons are not designed to care for or treat these people. People on the ground, who we've heard from today, are not given either sufficient training or support to deal with them, and they're essentially in the wrong system. That means that they break rules, they are disproportionately placed in solitary confinement, and they end up staying longer in prisons than their non-mentally ill peers.

I just want to-- When I have Senator Greenstein's attention, I just want to give you another picture to complement the picture that Deputy Commissioner Farsi gave us earlier -- about what it looks like to be in solitary confinement in New Jersey State Prison. The Management Control Unit cells are larger, but most of the people in solitary confinement down the block here on Cass Street are in 5-by-7-foot cells; that's 35 square feet. And those are the people who are getting 3-month, 6-month, 1-year, and 2-year sentences in 35 square feet -- which is not a lot of space. People are placed in dry cells without -- basically, without clothing, and just with a bare platform to sit on or sleep on. And they don't even have water in their sinks or toilets; they have to ask permission to flush the toilet or get water.

And people are supposed to stay in there for short periods of time, but as Senator Lesniak mentioned, and I think you did also, Senator Greenstein, what's written in the regulations isn't what always happens. And that's not because of intentional evil; but because running a large institution is very difficult and sometimes people are lost in the system. And they're lost in those dry cells, and they're lost in the temporary confinement cells, and they're lost in the pre-hearing detention cells that we heard about before.

SENATOR GREENSTEIN: (off mike) Can I just ask a question, because I'm curious.

MS. ROSS: Sure.

SENATOR GREENSTEIN: Are these cells that you're talking about down on Cass Street -- I guess that's the State Prison, right? Trenton State -- is that what it's called?

MS. ROSS: That's the New Jersey State Prison.

SENATOR GREENSTEIN: New Jersey State Prison.

MS. ROSS: Right. And 1-left--

SENATOR GREENSTEIN: Are those--

MS. ROSS: And I wish that some of you could go see the West Compound; that's the part of the prison that was built in 1836, which houses these 35-square-foot cells.

SENATOR GREENSTEIN: Now, are those cells ones that people are just put into when they go into the prison, or are those the ad seg, or other sort of punishment cells?

MS. ROSS: Those are-- The ones on 1-left are temporary cells, as the Deputy Commissioner testified. The 5-by-7 cells are the punitive cells for people who are being disciplined. And one of the problems with that -- which is addressed very broadly in this bill -- is that the procedures for determining who gets disciplined and what the discipline is are very -- could be improved significantly. And that's an issue--

SENATOR GREENSTEIN: (off mike) That's what really needs to happen, it sounds like -- among other things

MS. ROSS: That's important; right. In addition to the cell, we have people-- We have, in South Woods State Prison, people refer to a *boom boom room*, which is a solitary confinement cell where people are -- it is reported that people are beaten by officers and then left there without sufficient medical care.

Here's what we know from both the ground -- from the people who write to me, and call me, and write to Alex Shalom and the other people -- and also from the professionals who are writing about this. Symptoms of mental illness, for people in solitary confinement, include not

just depression and anxiety, which are bad enough, and fearfulness; but also symptoms of psychosis, including hallucinations and paranoia. In other words, these people suffer when they have these symptoms. Physiological and neurological damage, we've known since the Vietnam War, occur in addition to the psychological symptoms. And the problem is -- as, perhaps, people have mentioned -- these persist, so that folks who are subjected to the trauma of solitary confinement suffer from post-traumatic stress disorder, which they take with them back into the institution and then back into the community -- so that there's an association between solitary confinement and recidivism.

I won't belabor the point, but people who come in well to solitary confinement can become ill, because mental illness is becoming symptomatic. Mental illness can depend on your personal physiology and psychology, but also on your environment. So if you put someone in a toxic environment, the symptoms of psychosis, etc., can emerge. So people who are not sick, become sick; and people who are sick, suffer tremendously and become sicker. Therefore, because of this-- And you probably know this also from your experience, Senator Greenstein. In the psychiatric hospitals -- the other institutions where we put people with mental illness in solitary confinement -- solitary confinement is very, very strictly circumscribed: 24 hours at a time on a doctor's order. This is thanks to Senator Menza and others in 1975.

To people-- What's written in the regulations isn't what always happens, right? So prisoners with mental illness say that the clinical screenings -- after they have been -- there's a determination that they are going to be disciplined -- are often cursory. And those reviews that the

Department talked about may sometimes be credible, but sometimes what I hear is that what you have is a psychologist walking down a unit, looking into a cell door or through a window, and saying, "Are you okay?" And that's the psychological screening that takes place in some of the prisons, some of the time. So we have an implementation problem, which is really serious.

SENATOR GREENSTEIN: (off mike) Ms. Ross, could you just begin to wrap up?

MS. ROSS: Yes.

SENATOR GREENSTEIN: We have lots of (indiscernible).

MS. ROSS: Okay, sure.

SENATOR GREENSTEIN: Thank you.

MS. ROSS: My last statement is, New Jersey was the-- The New Jersey Legislature was the first in the state to abolish the death penalty (*sic*). I think that that the Legislature has a significant role to play. And that by supporting this bill you will encourage the discussions that have been so useful in other states -- to reach solutions for alternatives to the current system that will benefit the people who live and work in the prisons.

Thank you.

SENATOR GREENSTEIN: (off mike) Thank you very much.
Thank you.

Next, we have Patrick Hall.

What group are you with?

P A T R I C K H A L L: The Campaign to End the New Jim Crow, Trenton Chapter.

And I'll be very brief.

SENATOR GREENSTEIN: Thank you. (laughter)

MR. HALL: I thank you guys for listening to us today. But the Campaign to End the New Jim Crow has two chapters -- one in Princeton, and another in Trenton. And I am Co-Chair of the one in Trenton.

And what we generally do is, we're a coalition of congregations, arts and education institutions, and other community organizations dedicated to address the moral issues surrounding the mass incarceration. We work with other communities and structures in justice, and our existing penal system.

So basically what we do is we put together different events that surround the ideal of educating individuals about our penal system -- is basically what we do. And we work with lots of individuals and other organizations in the community.

So I'm not going to be long, because everything was pretty much said before us. But one thing came to mind as individuals were speaking. I used to run what's called a JINs program -- Juveniles in Need -- and it was a 24-hour program for the YWCA here in Trenton. And I had 12 kids, or individuals, who were not so nice kids -- let's just put it that way. And it became, at some point in time, extremely difficult to control the entire 12 with only about 2 or 3 individuals on staff.

And what I wanted to say -- as it relates to this issue as we see it, and talking to numerous individuals who are either paroled or have been through the system -- is that if I had an isolation for one of these kids I can put in, I would have put them in there because of their disregard for rules and regulations; I would have done it. But not for a long period of time; only until the issue was resolved. And I think that what I see, and what we

see in the situation is that the urge to put someone away in an isolated incident is so strong -- especially if you're dealing with 21 individuals in an institution, as opposed to a smaller number. But what we're seeing is that -- we believe that there needs to be, like you said, more information that is coming from the correctional facilities, number one; and secondly, it should be a board that's outside of the correctional system that's actually overseeing what's actually happening, and how long these things are being -- folks are being in isolation, and how that whole system works. So more information is definitely needed, and it needs to be more broadly open to the public to see.

So those are the things that I believe should be an add-on to everything else that has been said. But like any other organization, we urge this Committee to at least take a look at all the surroundings of what's going on, and I think 2015 can be a very historical year for this area if you guys decide to do something about it.

So we thank you very much, and we appreciate you listening to us.

SENATOR GREENSTEIN: (off mike) Thank you.

MR. HALL: All right; bye bye.

Oh, you have a question?

SENATOR GREENSTEIN: No, I don't. Thank you.

Mr. HALL: Oh, okay; good.

SENATOR GREENSTEIN: I appreciate it.

MR. HALL: You're welcome.

SENATOR GREENSTEIN: John Donnadio, Oscar Aviles, Mike Tolerico -- New Jersey Association of Counties/New Jersey County Jail

Wardens Association. I don't see in favor or opposed, so I guess we're going to find out.

JOHN DONNADIO: Yes, you will find out.

Thank you, Madam Chairwoman and members of the Committee. My name is John Donnadio; I'm the Executive Director of the New Jersey Association of Counties. I'm very happy to have with me today Passaic County Jail Warden Mike Tolerico; and Director of the Hudson County Jails, Oscar Aviles, who are also here on behalf of the New Jersey County Jail Wardens Association. So I know that's a lot of different acronyms and people, but we're here together.

And I want to first thank you for holding this bill for discussion purposes; and also Senator Lesniak for meeting with us earlier this morning to discuss this important and timely issue.

And I think it's significant for us to get on the record, number one, to make a distinction between a State prison and the 21 county jails; and also how this bill, as introduced -- and I understand it's a work-in-progress -- will impact the county jails, both procedurally and down the road as this bill is introduced, in terms of some of the potential cost factors as well.

So at this point I'd like to turn it over to Director Aviles who is, again, going to--

O S C A R A V I L E S: Madam Chair, members of the Committee, thank you for having us.

First of all, we want to say that we are not against the bill. What we oppose is the way the bill is written. Much of the language in the bill we agree with; many things that were said today by the speakers here

today, we agree with. We understand that long-term isolation can have a negative impact on an individual.

But what we're saying is that the way the bill is written, as it relates to how we run and operate our jails, can impact how we run our facilities. The definitions of (indiscernible), the manner in which -- how we place a person in segregation, can be an undue hardship to many of our county jails.

SENATOR GREENSTEIN: (off mike) Well, could you-- I was interested in what you said earlier -- that you're going to show the distinction between the State prisons and the county. If you could address that.

MR. AVILES: Yes. An average stay in a county jail is between 30 and 50 days. So there is no long-term isolation, okay? The regulations relative to how we segregate individuals in our facilities was defined by the State Department of Corrections. They regulate us, okay? So in the county jail setting, an individual commits an infraction; they have a disciplinary hearing; and then they can be placed in segregation. Upon completion of that segregation, they go back to general population. But we don't keep these folks long enough to -- as they would in a State correction facility.

MR. DONNADIO: And if I could add to that.

The reason that we don't keep them long enough is because county jails typically house pre-adjudicated inmates -- so the length of stay is typically, as Director Aviles pointed out, between 30 to 50 days. And I would say -- and back me up with this -- I think 95 percent of the county

jail population is pre-adjudicated inmates -- those who are awaiting some type of trial.

SENATOR GREENSTEIN: (off mike) So do have a procedure in the county jails if somebody is very unruly and they (indiscernible)--

MR. AVILES: Yes; yes, we do. We're governed under the State Department of Corrections regulations today. Some of our facilities house detainees -- immigration detainees, US. Marshall prisoners. So we're governed by their regulations also. Some of our facilities are accredited by the National Commission on Correctional Health Care, and we're governed by those standards as well. If an individual is going to be placed in segregation, they must be medically cleared prior to being admitted into segregation. Now, *medically cleared* is defined as checking to make sure that they're medically able to be in population, including their mental health history.

Unfortunately, the way the bill is written requires that an individual go through a mental health assessment by a psychologist or a psychiatrist; and many of these jails don't have a psychiatrist or a psychologist 24 hours a day. However, our regulations state that within 24 hours that individual will have a mental health assessment by a mental health professional.

MR. DONNADIO: If I could just add -- there was also a couple of other definitions that spoke about a vulnerable population. It looks like a lot of it's geared toward mental health, but some of the other definitions of *vulnerable population*, or *young offenders*, *older offenders* -- that may not necessarily need those mental health evaluations; maybe just someone -- a review.

SENATOR GREENSTEIN: (off mike) So what we're actually saying, if I understand it, younger and older, and mental health. So the younger and older are based strictly on age; they don't have to be mental health patients.

MR. DONNADIO: That's correct. As well as an evaluation. What type of an evaluation is actually being sought after here? I mean, typically, anybody in our disciplinary detention unit is there, like the Director said, for 15 days. But they're visited by medical staff, social workers, mental health staff during their time that they're in that unit. However -- they're visited, they're asked if they need anything, if there are any concerns -- but do they necessarily need a full evaluation? So I think there's a lot more discussion that needs to be brought forward with this.

SENATOR GREENSTEIN: (off mike) I don't have any additional questions, but I appreciate that; that's important here -- that even though the bill's definition would include the county jails -- it's a very different situation.

MR. DONNADIO: Thank you, Madam Chairwoman.

MR. AVILES: Thank you.

SENATOR GREENSTEIN: Next, we have Edward Sullivan, New Jersey Superior Officers.

Thank you; and also Louis Hall, Superior Officers.

Hello, how are you? You're both Superior Officers Association?

EDWARD F. SULLIVAN: Yes.

SENATOR GREENSTEIN: Different addresses, I see.

MR. SULLIVAN: Yes.

SENATOR GREENSTEIN: Okay; thank you.

MR. SULLIVAN: Good afternoon. I'm Edward Sullivan; I'm the President of the Superior Officers Association. We represent nine organizations -- Departments; State Departments. We represent employees serving in the capacity of Lieutenant or its equivalent.

We are definitely opposed to this bill. The main reason is safety and security. And I'm going to pass this all over to Lou.

LOUIS HALL: How are you doing?

Rather than be redundant and go through a lot of the testimony that's already been stated, I just wanted to make three points that haven't been touched on yet.

The Bill, the way it's written currently-- If it's changed, then we'd have to look at it again; but as of right now, there are 17 parts of that Bill that I saw in there that are actually quotes of 10A -- which is what we follow now anyway.

SENATOR GREENSTEIN: (off mike) Good. That was one of the things that some other colleagues of yours had mentioned to me. I believe there are many parts of the Bill that exist right now.

MR. HALL: And are followed.

SENATOR GREENSTEIN: And are followed.

MR. HALL: Yes.

SENATOR GREENSTEIN: (off mike) That part I'm not (indiscernible) to, but they do exist in the law right now.

MR. HALL: The second point I'd like to make -- I heard a lot of testimony here today that supports the bill. I'm sure they hear things, see things. But being -- working in the facility for 30 years, I'm here to tell you that no matter what age you are, what gender you are, what mental

health state you are in, violence is violence. And staff and inmates alike have to be protected. And the present criteria that were put in this Bill -- I believe of the nine criteria, the one that upsets us the most is the age, which you've commented on numerous times. A 57-year-old man or a 21-year-old man who has no mental health issues and wants to be violent is going to be violent. And to get a free pass and not go to administrative segregation for any length of time because of their age is just ludicrous.

Also, the final point I'd like to make is that -- if someone hasn't seen it -- working in a facility, what they basically did by putting these nine groups, is they are going to become victims in the prison.

SENATOR GREENSTEIN: (off mike) When you say the nine groups -- you know where I'm going?

MR. HALL: Well, it lists all the criteria that would be affected. In specific, it says 21 years or younger, 55 years or older, mental illness, history of psychiatric hospitalization, recent conduct of self-mutilation, developmental disability, serious medical conditions, pregnant, or visual impairment.

Most 57-, 58-year-old guys who I've seen in the prison, who work out in the gym -- gangs -- are going to use those people and make them hold shanks, make them hold the drugs, and sell it to them based on the fact that they won't have to go to ad seg. It's going to happen. And violence is going to rise; I don't care what anybody in this room says. It's going to happen.

What really confused me is when we talked to the Department of Corrections about it, we were informed that no one had met with them prior to the bill going in. I don't understand why we're not talking about

this before it even gets to you -- you shouldn't even see it until both parties have had a chance to talk about it. I believe that's going to happen now, but we shouldn't be in this format. I think that should take place, and then it should be revisited. But if that's not going to happen, then we ask for you to vote no on the bill.

SENATOR GREENSTEIN: (off mike) Luckily we're not voting today--

MR. HALL: Right.

SENATOR GREENSTEIN: --and it sounds like the sponsor has established contacts with all of the parties. So I'm very glad that so many people came out today, and there's a real opportunity for input on this.

Now, you're officers are in the-- I'm a little confused. Are they in the prisons?

MR. HALL: We represent Lieutenants in Corrections.

SENATOR GREENSTEIN: Oh, you're the Lieutenants.

MR. HALL: We're the actual people in charge of the areas and the shift commanders who run the prisons.

SENATOR GREENSTEIN: Got you.

Okay; well, anything else?

MR. SULLIVAN: I have--

SENATOR GREENSTEIN: Yes.

MR. SULLIVAN: The Superior Officers Association is not in total disagreement with some of the mental health professionals behind me, as well as the advocacy groups. But stressing what Lou just said, people

need to actually tour some facilities; as you said, get the data, and actually see what's going on. Because the--

SENATOR GREENSTEIN: (off mike) (Indiscernible) interviewing prisoners over the years, but I've never -- in various jobs that I've had -- but I've never actually toured some of these ad seg (indiscernible).

MR. SULLIVAN: The inference is that there is something completely different going on than what's actually going on. We're very progressive, and as a Corrections professional for 30 years, I can assure you that I'm very concerned about the mental status, the treatment, the adjustment of people who are incarcerated. Because, as someone said earlier, eventually they hit the streets. And it's not just a prison problem, it's a public problem as well.

So I welcome that tour. And I welcome you getting the data so that we can dispel some of the ideology that's going on right now. It's almost like the *Count of Monte Cristo* -- that's what some people are envisioning.

Thank you.

SENATOR GREENSTEIN: I do think that (indiscernible)--

(Internet recording interrupted)

MR. SULLIVAN: I hope this Committee moves in that direction.

SENATOR GREENSTEIN: Thank you.

(Internet recording interrupted)

RICHARD SROCZYNSKI: No.

SENATOR GREENSTEIN: Okay.

MR. SROCZYNSKI: I'm just a regular person. (laughter) A taxpayer, and a concerned citizen.

And I don't think, at this point, that I have anything to add to what's been said. But as a citizen, I think it's important to make a statement.

It's my belief that our corrections system should protect us. It should, whenever possible, restore the situation of the person who was the victim, and it should rehabilitate the person incarcerated so that ultimately society is better off -- or at least, no worse off.

Long before this discussion of isolation versus solitary confinement -- and what each of those means -- became a movement and became jargonized I, in my own work with people over many years -- it became clear to me that the use of isolation for punitive or administrative purposes -- even for a parent -- is unnecessary and unjustified. And not only does it not serve the purposes of corrections, but far too often works against those purposes and causes irreparable social and personal harm. And apparently from some of what we've heard today, it even puts the corrections staff in danger if and when the individual involved is ever released. And, some might say, maybe they shouldn't be released -- but I don't think that's the position we want to take as a society.

So my statement is that I think it should be eliminated. Thank you.

SENATOR GREENSTEIN: (off mike) Thank you.

(Internet recording interrupted)

A L I X N G U E F A C K: Thank you for having us here today. And I appreciate every other organization that spoke before you today.

I'm not going to all over my testimony; I have a copy here. But I want to highlight two things. I'll be speaking on behalf of immigrants who are detained in New Jersey facilities.

So I am urging you to support this bill which will limit the inhumane and excessive use of solitary confinement for all people confined by our State, whether they are inmates accused or convicted of a crime, or an immigrant detained while awaiting their immigration case. Under the immigration laws of this country, immigration authorities are allowed to detain non-citizens during the removal proceedings. This form of civil -- and I emphasize *civil* -- detention is not intended to be punitive; but in reality thousands of immigrants, many of whom have committed no crime and will win relief in the court system, are housed in county jails in Hudson, Bergen, and Essex counties and are subject to the same solitary confinement we're talking about here today.

In this system -- the immigration system -- detainees are frequently tossed into solitary confinement for 23 hours a day, for 15 to 30 days or more, with minimal due process and weak oversight from the Federal immigration authorities. The conditions that detainees have described to us in the isolation cells are horrific, including freezing cold temperatures with only one set of sheets for warmth; walls smeared with human excrement; and complete restriction on phone calls and visitation, including visits and phone calls from lawyers.

This bill will ensure that New Jersey is in full compliance with the standards that we're talking about here today -- the international standards and the U.N. Special Rapporteur's special report. It would improve the situation by compelling correctional facilities to use less

restrictive interventions whenever possible, imposing stricter time limits on solitary confinement, and stopping the use of solitary confinement for vulnerable populations.

It is the right thing to do for all people detained in New Jersey -- and especially for immigrant detainees, whose detention is nonpunitive in the first place.

There is one thing that I would like to highlight. As we conduct the monitoring of conditions in these facilities, we also know how difficult it is to ensure the implementation of standards behind their walls. As such, we call on the Committee today to include public accountability measures in this bill, which will either require prison authorities to issue public reports to civil society about their compliance with the new solitary confinement standards, or include a role for an ombudsman or monitor to oversee implementation. This way the public can be involved in guaranteeing the safe and humane operation of our correctional and immigration detention system.

I thank you very much for your time, and I hope that you will ultimately vote for this bill and include the amendment that I mentioned here.

Thank you very much.

SENATOR GREENSTEIN: (off mike) Tell me again -- what would the amendment be?

MS. NGUEFACK: The amendment will be to make sure that we include public accountability in the bill.

SENATOR GREENSTEIN: (off mike) So an ombudsman, (indiscernible)--

MS. NGUEFACK: Yes, or a monitoring system, including members of the community to make sure that implementation follows through. Because we know we have a lot of policy, a lot of laws and regulations, but they're not always followed through with.

SENATOR GREENSTEIN: (off mike) Okay, thank you very much.

Now, is James King still here? I think he might have left -- from the New Jersey Catholic Conference. He said no need to testify, and he's in favor.

Okay, now I have a slip for Barbara Johnston.

B A R B A R A J O H N S T O N: (off mike) Yes; I agree with the testimony.

SENATOR GREENSTEIN: It says, with amendment.

MS. JOHNSTON: Yes, yes.

I'd like to thank the Chair and the Committee for hearing us today.

SENATOR GREENSTEIN: You're with the Mental Health Association?

MS. JOHNSTON: I'm with the Mental Health Association in New Jersey. And we're a statewide not-for-profit organization dedicated to improving the lives of children, adults, and their families living with mental illness and other behavioral health disorders.

We support S-2588, and we'd like to thank the sponsors for bringing this forward and for considering our recommendations to enhance an already excellent bill.

And while the bill addresses the practices for adults facing solitary confinement in the adult correctional system, we are encouraging expanding similar protections for juveniles in Juvenile Justice Commission facilities. And these protections--

SENATOR GREENSTEIN: Just so you know, there's a bill in by Senator Pou, which I think we're going to take up at some point, and it does involve solitary confinement-type issues -- among many others -- in juvenile facilities.

MS. JOHNSTON: Right. We're well aware of that; that's S-2003, I believe. And we have looked at that bill, and we applaud Senator Pou for going forward with such broad recommendations for the juvenile system.

But specifically, the treatment of children, particularly children with disabilities in juvenile facilities, has been a concern of the advocacy communities for quite a while. We thank the sponsors for recognizing that youth and juvenile justice facilities are also vulnerable populations. And this is not included in Senator Pou's bill, so there can be a merging because we've looked at both of them. We've raised this issue with the sponsors, and we plan to work with them, moving forward.

So thank you.

SENATOR GREENSTEIN: (off mike) Thank you very much; thank you.

Is there anybody else here today who wants to speak? Because I don't have any more slips, but anybody -- I know you ladies have been waiting for a long time, and if you'd like to say anything? Anybody else?
(no response)

Okay, then we are ready to adjourn. Thank you.

(MEETING CONCLUDED)