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**TESTIMONY 2013**  
**H.B. 1266**

Dear Members of the Committee,

Thank you for allowing me this opportunity to present testimony in favor of House Bill (H.B.) 1266, an effective policy that will help criminal justice agencies improve policies and practices related to administrative segregation. Improvements to administrative segregation practices will ensure greater rehabilitative assistance for individuals in seclusion, thus increasing the likelihood that those who are released from administrative segregation and eventually return to our communities will live productive, law-abiding lives. This will save the state money, increase public safety, and strengthen communities.

### **CURRENT ADMINISTRATIVE SEGREGATION PRACTICES ARE UNSUSTAINABLE AND MUST BE IMPROVED**

In 2012, the Texas Department of Criminal Justice (TDCJ) housed 8,238 prisoners—over 5% of its total prison and jail population—in administrative segregation.<sup>1</sup> This is compared to a national average of 1-2% of individuals in correctional administrative segregation.<sup>2</sup> **While in administrative segregation, inmates typically spend all but one hour per day confined in a small cell with little or no human contact, are denied participation in rehabilitation, education, and religious programming, and are deprived of contact visits with other individuals.** The average length of stay in administrative segregation in Texas is about 3 years.<sup>3</sup> Given the general 23 hours a day of segregated confinement, this amounts to 26,864 hours of isolation on average. However, this average represents a broad range of time spent in administrative segregation. The Texas Criminal Justice Coalition (TCJC) has received numerous letters from individuals who are in or have been recently released from administrative segregation. One person who wrote us recently from administrative segregation to express concerns about his mental and physical wellbeing spent the last 18 years confined in administrative segregation.

Given the myriad of mental health and rehabilitative complications that arise from prolonged isolation, it is disconcerting to note that 2,060 individuals in administrative segregation were recently identified with a serious mental health or mental retardation diagnosis. This is an increase from 1,960 in 2010.<sup>4</sup> Contemporary studies indicate that prolonged isolation in prison segregation, coupled with extensive deprivation of human contact, may “exacerbate mental health disturbances, assaultive and other antisocial behaviors, and chronic and acute health disorders.”<sup>5</sup>

Moreover, segregation leads to discomfort with social interactions and difficulties being around other people, whether in a prison setting or in the community. It should come as no surprise, therefore, that **many individuals released directly to the community reoffend at higher rates.**<sup>6</sup> Inmates who return to the general population or to the community after spending time in segregation often lack the ability to control themselves because they have come to rely heavily on the restrictive structure of solitary confinement.<sup>7</sup> **This may be one reason why inmates who are directly released to the community from a heavily isolated setting are more likely to commit another felony.**<sup>8</sup>

Releasing individuals directly from administrative segregation into the community fails to properly equip them with necessary tools to succeed. In addition to deficient socialization skills training and lack of human interaction, inmates in administrative segregation are denied various privileges and opportunities, including contact visits, participation in educational or vocational programs, the opportunity to earn participatory work or educational good time credits, access to important programs, and other freedoms granted the general population. This not only jeopardizes public safety, it further encumbers an individual's likelihood to successfully reintegrate into his or her community.

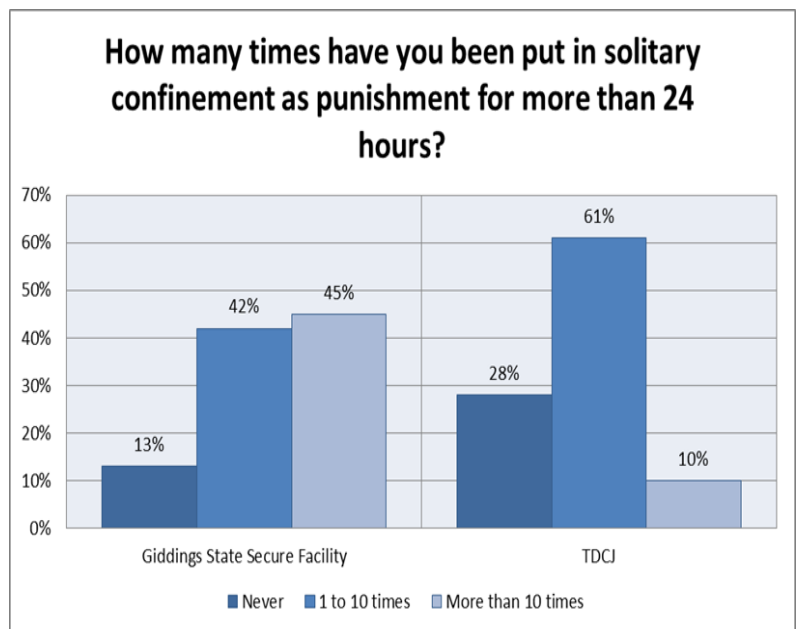
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## KEY FINDINGS REGARDING ADULT ADMINISTRATIVE SEGREGATION

- Especially for those in segregation, studies have shown that social isolation has damaging psychological effects,<sup>9</sup> including “hypertension, uncontrollable anger, hallucinations, emotional breakdowns, chronic depression, and suicidal thoughts and behavior.”<sup>10</sup>
- In 2011, TDCJ identified 2,060 individuals in administrative segregation (nearly 25%) who had a mental health or mental retardation diagnosis.<sup>11</sup>
- **In 2011, Texas released 1,347 individuals directly from administrative segregation to the streets<sup>12</sup> without having provided them any rehabilitative programming, which may endanger public safety in both the short and long term.** Texas released 878 inmates on flat discharge, meaning without supervision or support, directly from administrative segregation. In that same year, TDCJ released 466 individuals directly from administrative segregation to parole.<sup>13</sup> Inmates on parole have the advantage of being able to participate in a District Reentry Center, which generally offers more robust programming and resources during the transition into the community.
- Of those released in 2007 directly to the community, 33% re-offended and returned to prison within three years.<sup>14</sup> TDCJ’s rehabilitative responsibility requires that TDCJ pay particular attention to inmates who have spent extensive amounts of time in isolation without appropriate programming or treatment to hone positive social skills and address other critical needs.

## KEY FINDINGS REGARDING YOUTH ADMINISTRATIVE SEGREGATION

In February 2013, TCJC’s Solution for Youth Justice Project conducted a survey of 670 individuals who had either been certified or transferred from juvenile supervision to the Texas Department of Criminal Justice. Of those 670 surveys sent, 277 responded. The chart at right shows the number of times they have been placed in solitary confinement at a state secure juvenile facility and at a TDCJ facility. These preliminary findings have been compared with a previous survey conducted among youth within the Giddings State Secure Facility, which is under the jurisdiction of the Texas Juvenile Justice Department. As you can see, initial findings indicate that youth incarcerated in TDCJ are more susceptible to isolation than their counterparts served in the juvenile system.



These findings are quite alarming, especially given that the ramifications of isolation can be exponentially worse for youth who are still undergoing mental and physical development. Indeed, the use of isolation not only hinders the developmental process, it perpetuates the harmful exposure of youth to traumatic experiences.<sup>15</sup>

Research on the developing brain and the effects of trauma shows the following:

- The brain is reorganizing during adolescence (ages 14 to 25), which is a critical brain growth period.<sup>16</sup>
- By age 16, adolescents are similar in cognitive functioning to adults, but they lack the ability to regulate their emotions, leading to a disconnect between what they think and how they feel. It is psychological and social development that continues into adulthood.<sup>17</sup>
- Stress and trauma during this time of brain growth cause the development of socially negative behavior due to chemical changes in the brain, signaling the brain to eliminate unused or undesired connections permanently. This leaves the body in a heightened state and manifests as impulsiveness (e.g., theft, aggression) and impaired logical judgment (e.g., rule breaking).<sup>18</sup>

### A SAFE REDUCTION IN ADMINISTRATIVE SEGREGATION IS ACHIEVABLE

Ohio and Mississippi, during the mid-2000s, effectively reduced their supermax populations by 89% and 85% respectively. Mississippi's segregated population fell from 1,000 to 150 inmates, while Ohio reduced its population from 800 to 90.<sup>19</sup> Mississippi also saw a near 70% drop in prisoner-on-prisoner and prisoner-on-staff violence. Further, use of force by officers in the unit decreased.<sup>20</sup> Inspired by the successful reduction of administrative segregation in both Ohio and Mississippi, the Vera Institute launched a Segregation Reduction Project in 2010. In an effort to safely reduce the number of individuals kept in isolation, the Segregation Reduction Project works with states to facilitate policies that: "(a) reassess the violations that qualify a prisoner for segregation and (b) recalibrate the length of stay in segregation, especially for minor incidents."<sup>21</sup> Importantly, the Vera Institute also promotes improved conditions and program enhancement to support a safe transition from segregation. Vera is currently partnered with the Illinois Department of Corrections, the Washington State Department of Corrections, and the Maryland Department of Public Safety and Correctional Services.

### COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT H.B. 1266 BY CHAIRMAN GUILLEN

- **H.B. 1266 will provide criminal justice agencies, in cooperation with an independent third party, the opportunity to carefully review policies and practices related to administrative segregation and solitary confinement of youth and adults.** H.B. 1266 would require an independent third party to help conduct this comprehensive evaluation and provide outside expertise on best practices related to isolation and solitary confinement. This third party will submit a report of its findings and recommendations to the legislature by December 31, 2014.
- **A careful examination of the use of administrative segregation will help increase the likelihood that individuals confined in an isolated setting will successfully reintegrate into the community if and when they are released, thus improving public safety and saving taxpayer money otherwise spent on costly re-offending.** Over-reliance on the isolating and restrictive qualities of administrative segregation is dangerous for inmates, staff, and the public. This is especially true given that TDCJ releases a significant number of individuals directly from administrative segregation into our communities. Additionally, because many of these individuals have diagnosed mental health issues, it is critical that TDCJ employs the best practices and minimizes reliance on administrative segregation.

### CONCLUSION

Thank you again for allowing me the opportunity to testify in favor of H.B. 1266. It is an effective policy that will help improve the policies and practices related to administrative segregation as it applies to both adults and juveniles confined in a criminal justice facility. The Texas Criminal Justice Coalition strongly urges you to support this bill.

*Citations on reverse.*

## Citations

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- <sup>1</sup> Texas Department of Criminal Justice (TDCJ), Fiscal Year 2012 Statistical Report, p. 1, 2013, [http://www.tdcj.state.tx.us/documents/Statistical\\_Report\\_FY2012.pdf](http://www.tdcj.state.tx.us/documents/Statistical_Report_FY2012.pdf). See total number of individuals on hand in TDCJ in administrative segregation (8,238) as of August 31, 2012, and the total number of individuals on hand in prison and state jail as of that date (148,824).
- <sup>2</sup> James Austin and Emmitt Sparkman, "Colorado Department of Corrections Administrative Segregation and Classification Review," National Institute of Corrections, October 2011, [http://www.ccjrc.org/pdf/2011\\_Solitary\\_Confinement\\_Report.pdf](http://www.ccjrc.org/pdf/2011_Solitary_Confinement_Report.pdf).
- <sup>3</sup> Data gleaned from Texas Department of Criminal Justice (TDCJ) Response to Open Records Request, "Administrative Segregation," 12 December 2011; information available upon request.
- <sup>4</sup> *Ibid.*
- <sup>5</sup> Angela Browne, Alissa Cambier and Suzanne Agha, "Prisons within Prisons: The Use of Segregation in the United States," *Federal Sentencing Reporter*, Vol. 24, no. 1 (October 2011), p. 46 (citing David Lovell, L. Clark Johnson, and Kevin C. Caine, *Recidivism of Supermax Prisoners in Washington State*, 53 *CRIME DELINQUENCY* 633-56 (2007); David Lovell & Clark Johnson, *FELONY AND VIOLENT RECIDIVISM AMONG SUPERMAX PRISON INMATES IN WASHINGTON STATE: A PILOT STUDY* (University of Washington, 2004), available at <http://www.son.washington.edu/faculty/fac-page-files/Lovell-SupermaxRecidism-4-19-04.pdf>).
- <sup>6</sup> *Ibid.*
- <sup>7</sup> Craig Haney, "Mental Health Issues in Long-Term Solitary and 'Supermax' Confinement," *Crime & Delinquency*, Vol. 49, January 2003, p. 124; accord Browne, *supra* note 5.
- <sup>8</sup> David Lovell, Clark L. Johnson, and Kevin C. Cain, "Recidivism of Supermax Prisoners in Washington State," *Crime & Delinquency*, Vol. 53, October 2007, p. 4.
- <sup>9</sup> The recent "One Year Longitudinal Study of the Psychological Effects of Administrative Segregation" by Maureen L. O'Keefe found that administrative segregation had no detrimental effect on the mental health of prisoners at Colorado State Penitentiary (CSP). It is important to understand that the administrative segregation system at CSP varies widely from the TDCJ administrative segregation system. CSP institutes a transitional incentive-based program with several levels that gradually decreases restrictions and increases privileges such as work and more contact with friends and family. It is also important to heed to the report's warning that "systems that are more restrictive and have fewer treatment and programming resources should not generalize these findings to their prisons" [p. 82].
- <sup>10</sup> Haney, *supra* note 11, at 124.
- <sup>11</sup> Open Records Request, *supra* note 3.
- <sup>12</sup> TDCJ, Statistical Report: Fiscal Year 2011, p. 3, [http://www.tdcj.state.tx.us/documents/Statistical\\_Report\\_FY2011.pdf](http://www.tdcj.state.tx.us/documents/Statistical_Report_FY2011.pdf).
- <sup>13</sup> Open Records Request, *supra* note 3.
- <sup>14</sup> Open Records Request, *supra* note 3.
- <sup>15</sup> C. Haney, "Mental health issues in long-term solitary and "supermax" confinement," *Crime and Delinquency*, Issue 49, pp. 124-156 (2003).
- <sup>16</sup> J. McIntosh & A. Schore, *Family Law and the Neuroscience of Attachment: Part 1*. Family Court Review, vol. 49(3), July 2011.
- <sup>17</sup> Montgomery, *Neurobiology Essentials for Clinicians*; also see Arizona State University, "Adolescent Brain and Juvenile Justice: New Insights from Neuroscience, Genetics, and Addiction Science Panels," May 2012, available at <http://lsi.law.asu.edu/adolescentbrains2011/index.html>.
- <sup>18</sup> A. Schore, "Affect Dysregulation and Disorders of the Self," New York: W. W. Norton & Co, 2003.
- <sup>19</sup> Michael Jacobson, President and Director Vera Institute of Justice, Written Testimony Provided for the U.S. Senate Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights and Human Rights, 19 June 2012, p. 2 (citing Terry Kupers et al., "Beyond Supermax Administrative Segregation: Mississippi's Experience Rethinking Prison Classification and Creating Alternative Mental Health Programs," *Criminal Justice and Behavior* 36 (2009): 1037-50, available at <http://www.vera.org/files/michael-jacobson-testimony-on-solitary-confinement-2012.pdf> (citing James J. Stephan, *Census of State and Federal Correctional Facilities* (Washington, DC: U.S. Bureau of Justice Statistics, National Prisoner Statistics Program, 2008, NCJ 222181).
- <sup>20</sup> *Ibid.*
- <sup>21</sup> Jacobson, *supra* note 19, at 3.