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### POSITION ON PROPOSED LEGISLATION

**BILL: HB 855: Juvenile Law- Limits on Restrictive Housing**

**FROM: Maryland Office of the Public Defender**

**POSITION: Favorable**

**DATE: 2/10/2024**

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 855.

I am Office of the Public Defender's Forensic Mental Health Division Chief, and I have been an attorney representing teens for about 25 years.

Over the course of my career, I have worked with many kids who have been placed in "restrictive housing", more commonly called solitary confinement. Children initially charged as adults often spend days in solitary confinement in adult detention centers.<sup>1</sup> Federal law requires adult detention centers housing children to maintain sight and sound separation. Because they are not set up to regularly and consistently house children they frequently use solitary confinement as a means of complying with the Federal Prison Rape Elimination Act. Historically restrictive housing, or solitary confinement, was also colloquially called "23 and 1" because people would spend 23 hours per day in the cell with one hour for recreation time and showering. I had a sixteen year old client who was in solitary confinement for approximately 18 months in the Harford County Detention Center while he awaited trial because the Judge did not transfer him to a juvenile facility. He described it to me as follows "Being on 23 and 1 was mental

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<sup>11</sup> See *What it's Like for Teens in the Baltimore County Jail*, Rachel Baye, WYPR News, March 30, 2023. <https://www.wypr.org/wypr-news/2023-03-30/what-its-like-for-teens-in-the-baltimore-county-jail>

agony. It's more than being bored. All you can do is write, read, sleep, and do pushups and sit ups. The cell was small- it was a double bunk with a toilet and sink. The door was metal with a small window at about eye level and a slot in the middle for guards to slide food in.”

DPSCS files an annual report on their use of Restrictive Housing, and GOCYVP includes data from local detention centers in it's data dashboard. I could find no similar data for the Department of Juvenile Services, nor was there readily available data on the use of solitary confinement for incarcerated children.

Mental Health Professionals have long known that solitary confinement causes significant harm. The American Psychological Association has come out solidly against the use of prolonged solitary confinement for children.<sup>2</sup> As has the American Academy of Child and Adolescent Psychiatry noting “the potential psychiatric consequences of prolonged solitary confinement are well recognized and include depression, anxiety and psychosis. Due to their developmental vulnerability, juvenile offenders are at particular risk of such adverse reactions. Furthermore the majority of suicides in juvenile correctional facilities occur when the individual is isolated or in solitary confinement.”<sup>3</sup>

Courts have also acknowledged the harms caused by solitary confinement, holding that for inmates already suffering with mental illness it can amount to cruel and unusual punishment.<sup>4</sup>

The use of solitary confinement impedes rehabilitation and is contrary to public safety. Former corrections executives, as amici curiae, have opposed prolonged solitary confinement stating, “Imprisoning people with SMI in solitary confinement is detrimental to their mental and

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<sup>2</sup> APA Position Statement on Solitary Confinement (Restricted Housing) of Juveniles  
<https://www.psychiatry.org/getattachment/7bc96d18-1e73-4ac1-b6b5-f0f52ed4595a/Position-2018-Solitary-Confinement-Restricted-Housing-of-Juveniles.pdf>

<sup>3</sup> American Academy of Child and Adolescent Psychiatry, Juvenile Justice Reform Committee. Solitary Confinement of Juvenile Offenders (2012).  
[https://www.aacap.org/aacap/Policy\\_Statements/2012/Solitary\\_Confinement\\_of\\_Juvenile\\_Offenders.aspx](https://www.aacap.org/aacap/Policy_Statements/2012/Solitary_Confinement_of_Juvenile_Offenders.aspx)

<sup>4</sup> Palakovic v. Wetzol, 854 F.3d. 209 (2017).

physical health. Further punishing those people with round-the-clock, unrelenting 24/7 solitary confinement and deprivation of exercise as punishment for behaviors caused by their SMI is illogical and counterproductive to the goals of safety, security, and good order of correctional facilities.”<sup>5</sup>

In light of those effects of solitary confinement, it is not surprising that it does not reduce either inmate on inmate violence, or violence against correctional staff. “In fact, solitary confinement does not “inspire even short-term behavioral changes in inmates. On the contrary, prisons with higher rates of restrictive housing had higher levels of facility disorder.”<sup>6</sup>

Increased use of solitary confinement is also linked to worse public safety outcomes. “Research shows a direct correlation between the length of imprisonment in solitary confinement and the odds of recidivism. One metaanalysis found that the longest terms in solitary confinement were associated with the highest rates of recidivism, suggesting that increases in the length of exposure may have deleterious effects.”<sup>7</sup>

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a Favorable report on House Bill 855.**

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**Submitted by: Maryland Office of the Public Defender, Government Relations Division.**

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<sup>5</sup> Johnson v. Prentice, et al. in the Supreme Court of the United States. Brief of Former Corrections Executives Martin F. Horn, Scott Frakes, Steve J. Martin, Ron McAndrew, Richard Morgan, Dan Pacholke, Emmitt Sparkman, Phil Stanley, Eldon Vail, and Roger Weholtz as Amici Curiae in support of Petitioner. February 23, 2023, at page 39. [https://www.supremecourt.gov/DocketPDF/22/22-693/255497/20230224114849881\\_2023.02.21%20Amicus%20Brief%20FINAL.pdf](https://www.supremecourt.gov/DocketPDF/22/22-693/255497/20230224114849881_2023.02.21%20Amicus%20Brief%20FINAL.pdf)

<sup>6</sup> Brief of Former Corrections Executives, supra at 19-20.

<sup>7</sup> Id. at 22.