

All agree solitary confinement is not an ideal solution

By Mark Mahoney

For almost two hours, Brian Fischer, the commissioner of the state corrections department, sat quietly at the end of the table.

Occasionally he would smile at a comment that was made by a fellow panelist, or shake his head or jot down a note or two.

He listened politely all that time as a renowned psychiatrist, a human rights advocate, a civil rights advocate and a former state prisoner passionately outlined the many reasons why solitary confinement should be significantly curtailed in prisons.

When it finally came time for Fischer to speak, he stepped deliberately to the microphone, patted the former prisoner on the shoulder and shook his hand as he passed, and presented a scenario for which neither he nor the audience had a ready answer.

"Why is it OK to put a person in prison, but not separate them if they commit a crime in prison?" he asked. "What do I do with the guys, who for whatever reason, in effect threaten the safety of everybody?"

Fischer was the final speaker at a January 26 panel at the Annual Meeting, hosted by the State Bar's Committee on Civil Rights, on the human rights implications of using solitary confinement in prisons.

Based on available data, there are at least 80,000 prisoners in isolated confinement on any given day in America's prisons and jails, including approximately 25,000 in long-term solitary in supermax prisons, according to Solitary Watch, a prisoners' rights organization based in Washington, D.C.

The general public, Fischer said, has no problem separating itself from criminals. And legislators have no such problem making tough laws to take dangerous people off the streets.

But when it comes to an inmate who slams someone over the head with a chair or who unapologetically stabs a fellow inmate to death in the recreation yard, the prison system is questioned for essentially taking the same approach, he said.

He turned to the audience and offered a situation in which someone goes crazy at the Annual Meeting and starts threatening or harming people.

"What are you going to do?" he asked. "You're going to do what we do."

It is often not an easy decision to decide who needs to be placed in solitary confinement and who doesn't, Fischer said. But if an inmate declares that he plans to harm himself or others, the prison is liable should the inmate follow through with his threat.



Scourge of Solitary—Jay Coleman, left, life skills educator with the Center for Employment Opportunities in Albany, and Jamie Fellner, senior adviser for the U.S. Program of Human Rights Watch in New York City, discuss the harmful effects of extended solitary confinement. [Photo by Richard Smith]

Fischer said he and his fellow panelists were in general agreement on their goals, particularly when it comes to dealing with those who are seriously mentally ill. But he said there are impediments to reaching those goals.

Arguing against confinement

Prior to Fischer's remarks, attendees heard a compelling case for eliminating or significantly altering the use of solitary confinement.

David Fathi, director of the American Civil Liberties Union National Prison Project in New York, said there's no question that some prisoners need to be separated from the general population. But he questioned the methods and extent to which the practice is used in the nation's prisons. He also questioned whether the physical and social isolation of inmates really makes prisons safer.

He described the conditions in so-called "Super Max" prisons. In one such prison in Wisconsin, solitary confinement consists of inmates being locked in windowless cells 24 hours a day, seven days a week, for many months or years; receiving no human contact except with their lawyers; eating food slipped through a tiny slot in the door; not being allowed personal effects such as photos; and communicating with family members only via a video screen.

In those prisons, severe psychological damage is being done and existing mental illnesses are being exacerbated under conditions that Fathi said in some ways are "close to what is humanly tolerable."

Jamie Fellner, senior adviser for the U.S. Program of Human Rights Watch in New York City, also spoke about

solitary confinement at Super Max prisons, which she dubbed "solitary on steroids."

"Some of the conditions are just gratuitously cruel," she said, noting that psychological torture is often worse than physical torture.

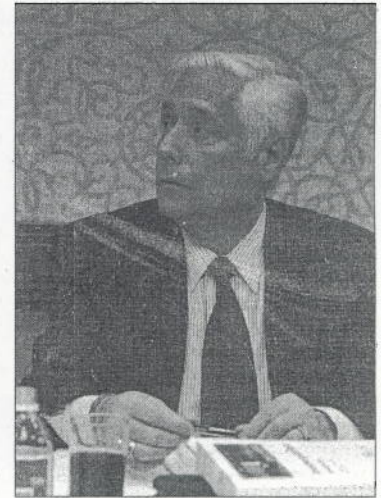
She said many prisons continue to rely on solitary confinement to provide "pain and deprivation" rather than offer positive strategies to control behavior. She acknowledged that prisons are not given the resources to provide better conditions, a statement echoed later in the forum by Fischer.

Psychiatrist Stuart Grassian of Chestnut Hill, Massachusetts, has interviewed hundreds of inmates and published studies on the impact of solitary confinement. He said even prisoners without pre-existing mental illness develop a characteristic psychiatric syndrome in solitary. They show symptoms that may include difficulties in thinking, concentration and memory, panic attacks, obsessive thoughts, self-mutilation and random violence, and in the most severe cases, overt psychotic delirium with disorientation, hallucinations and paranoia.

He stated that although some of these symptoms will remit when the inmate is released from solitary, many inmates remain permanently impaired by the experience.

As for the impact on prison safety of solitary confinement, some people often become more violent in those conditions, he said.

"We're not dealing with the worst of the worst. We're dealing with the sickest of the sick," he said. "The prison paradigm, that if you punish it enough, it will get better, doesn't apply to these people."



Taking notes—Brian Fischer, the commissioner of the state corrections department, waits his turn to speak. [Photo by Richard Smith]

Personal experience

While others have studied solitary confinement, one panelist has experienced it firsthand.

Jay Coleman, who served 25 years in 15 different prisons within the state prison system, said "SHU (Special Housing Unit) is painful, not only to feel but to look at."

"There are many things that happen in SHU that shouldn't happen to people," said Coleman, now a life skills educator at the Center for Employment Opportunities in Albany. "You don't know what can happen from day to day."

He said prisoners often are sent to solitary confinement for reasons that don't warrant such severe punishment. He admits he did some bad things in prison. But often, he was sent to solitary confinement for what he considered to be minor reasons. For instance, he was once placed in the SHU for smoking marijuana after learning his wife had cancer.

"We're paying for our crimes. Do you have to give us double punishment?" he asked.

Among the alternatives to solitary confinement suggested by panelists were looking more closely at where and when an offense occurs to determine whether solitary confinement is the appropriate punishment; taking away "good time" for inmates who misbehave; limiting the time an inmate must spend in solitary; spending more money on alternatives; taking away privileges specifically related to the offense committed; and not sending inmates to solitary for minor infractions. ♦

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