

## Safety has to come first in N.Y.'s prisons

By Brian Fischer

Published 12:21 a.m., Sunday, August 19, 2012

Ninety percent of New York's prison population will tell you they just want to do their time without a problem and go home — and do so without incident. But the other 10 percent are less cooperative and create safety issues for the entire system. Providing safety for all our staff and inmates falls to the commissioner of the prison system.

I use two scenarios to explain our agency's use of disciplinary and administrative segregation.

First, when a person assaults someone in the community, society calls for their immediate removal and appropriate sanction. When an inmate commits the same offense inside a prison, why do we question their removal from general population?

Second, when an inmate assaults another inmate or staff, what should we do? My answer is disciplinary segregation.

Add to those issues inmates who have escaped, tried to escape, killed a correction officer or civilian staff, killed other inmates, encouraged unrest among the population, smuggled dangerous contraband, or have proven to be a serious threat to everyone — and you get inmates placed in disciplinary segregation.

Simply, it is the appropriate sanction based on the individual's offense and behavior. The removal of inmates for such behavior has resulted in safe conditions throughout our system. The last employee to die at the hands of an inmate was 31 years ago, the last escape at a medium-security was 18 years ago, the last escape at a maximum-security was nearly a decade ago, and the last major disturbance among inmates was 15 years ago.

An Aug. 15 Times Union editorial said that the Department of Corrections had 8 percent of its inmate population housed in "the box" today compared to 5 percent in 2003. The numbers are approximately correct. But there was no mention of the fact that of the 4,300 inmates in disciplinary segregation, 1,400 live in two-man cells or that the average stay in disciplinary segregation for the rather typical offense of possessing or using of drugs is 123 days.

The editorial also did not point out that 2,264 inmates received SHU sanctions because of physical assaults, use or possession of weapons and possession of drugs along with assault and/or weapons.



And there was no mention of our process for inmates to earn privileges, reduce their disciplinary time or become involved with limited programs while serving their disciplinary sanction.

Likewise, the editorial did not consider that since 2003, the inmate population has changed from about 60 percent incarcerated for nonviolent crimes to 60 percent for violent crimes. While our overall inmate population has continued to decrease, we have experienced a significant change in the overall composition of that population. And stating that "the state's definition of mental illness in the prison system is conservative, allowing it to get around the law," is simply wrong.

The exceptional circumstance clause in state law, which allows an inmate with a serious mental illness to remain in segregated confinement for more than 30 days, says it can occur when "removal would pose a substantial risk to the safety of the inmate or other persons, or a substantial threat to the security of the facility, even if additional restrictions were placed on the inmate's access to treatment, property services or privileges in an RMHTU."

The law goes on to say if we identify such cases we still must offer them a minimum of two hours of out-of-cell therapeutic treatment and programming five days a week. The Department of Corrections & Community Supervision currently has seven inmates who are diagnosed as seriously mentally ill with over 30 days of confinement time and who are documented as exceptional circumstances.

Quite simply, we adhere to the law.

A fair criticism that can be made is whether or not we're placing the right inmate in disciplinary segregation and are we keeping them there longer than necessary. That's why, at my direction, DOCCS is reviewing its policies regarding such placements and length of stays.

The key element is, and always will be, safety for staff and inmates alike.

Brian Fischer is commissioner of the state Department of Corrections & Community Supervision.

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