Statement of Ron Honberg, J.D.
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NAMI (National Alliance on Mental Illness)
Before the
United States Senate
Committee on the Judiciary
Subcommittee on the Constitution, Civil Rights and Human Rights

June 15, 2012

Dear Chairman Durbin and Ranking Member Graham:

This testimony is submitted on behalf of NAMI (National Alliance on Mental Illness), the nation's largest grassroots organization dedicated to building better lives for the millions of Americans affected by mental illness. NAMI advocates for access to services, treatment, supports and research and is steadfast in its commitment to raising awareness and building a community of hope for all of those in need. NAMI's members include countless families and friends of persons living with serious mental illness who are incarcerated or otherwise involved with the criminal justice system.

In recent years, concerns have increased about the extensive use of solitary confinement and other forms of administrative segregation in both adult and juvenile correctional facilities. For NAMI, this is an issue of particular concern, because a significant percentage of individuals incarcerated in correctional facilities suffer from pre-existing serious mental illnesses, such as schizophrenia, bipolar disorder, major depression, post-traumatic stress disorder (PTSD) and other serious psychiatric disorders.

A recent study concluded that 16.9 percent of inmates in jails suffer from serious mental illness and the U.S. Department of Justice estimates that 24 percent of all state

prisoners in the U.S. are diagnosed with these illnesses.[1] The prevalence of youth with serious mental health disorders in juvenile justice facilities is even higher. According to the National Center for Mental Health and Juvenile Justice, 70 percent of youth in the juvenile justice system have one or more psychiatric disorders, with 20 percent of these youth having a serious mental illness that significantly interferes with their day-to-day functioning.[2]

Veterans with post-traumatic stress disorder (PTSD), traumatic brain injuries (TBI) and other severe cognitive or mental disorders that have been called "invisible wounds of war" are also disproportionately represented in the criminal justice system. Although current estimates are not available, an earlier study conducted by Rosenheck, *et. al.,* documented that 15.7 percent of all male users of VA mental health services had been incarcerated at some point between 1994 and 1997, and these rates were substantially higher among veterans between the ages of 18 and 39.[3] Since users of VA mental health services have increased significantly in recent years, it is very possible that these rates are even higher today.

Inmates with Mental Illness are Frequently Placed and Kept For Long Periods of Time in Solitary Confinement

Despite the high prevalence of serious mental illness among incarcerated individuals, correctional systems often lack the expertise and resources to effectively respond to individuals experiencing symptoms of their illness, such as delusions or

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[1] H.J. Steadman, F.C. Osher, et. al., "Prevalence of Serious Mental Illness Among Jail Inmates," *Psychiatric Services* 60: 761-765 (2009); James, D. and Glaze, L., "Mental Health Problems of Prison and Jail Inmates, U.S. Department of Justice, Bureau of Justice Statistics, (2006)

[2] Skowyra K. & Cocozza, J. (2007). *Blueprint for change: A comprehensive model for the identification and treatment of youth with mental health needs in contact with the juvenile justice system*. Accessed at www.ncmhjj.com.

[3] R.A. Rosenheck, S. Banks, J. Pandiani, et. al., "Bed Closures and Incarceration Rates Among Users of Veterans Affairs Mental Health Services," *Psychiatric Services,* 51: 1282-1287, 2000.

hallucinations. Behaviors resulting from these symptoms are resulting in excessive and inappropriate placements of individuals in segregated settings within correctional systems, such as supermax prisons, locked down special housing units, or other forms of solitary confinement.

The reasons for the excessive placement of persons with mental illness in solitary confinement are multiple, including for purposes of discipline, protection from other inmates, or because their psychiatric symptoms are so severe that they are unable to function in the general prison setting. Whatever the reason, these placements are highly inappropriate and cause extreme suffering and often long term damage. Placing individuals with severe psychiatric symptoms in solitary confinement is akin to pouring gasoline on a fire. It is an almost sure fire guarantee to lead to a worsening of symptoms.

Human Rights Watch, in an important report issued in 2003 on individuals with mental illness in U.S. prisons, provided documentation of this trend in a number of states.[4] For example:

- Indiana reported that between one-half and two-thirds of the inmates in its segregated Special Housing Unit in the Wabash Valley Correctional Unit were mentally ill.
- Dr. Dennis Koson, retained as an expert to review mental health treatment in New Jersey prisons, reported that inmates with mental illnesses were three times more likely to be found in solitary confinement or other forms of administrative segregation, than in the general population of the prison.

[4] S. Abramsky and J. Fellner, *Ill Equipped: U.S. Prisons and Offenders with Mental Illness,* Human Rights Watch (2003), 147-148

- The New York State Correctional Association reported that 23 percent of all inmates in special housing units were on the mental health caseload and among these individuals, nearly one-third had previous psychiatric hospitalizations.

These trends have continued and even worsened in recent years. Many states acknowledge that they frequently confine inmates with mental illness for long periods of time in solitary confinement.

- Officials with the Michigan Department of Corrections acknowledge that there are probably more inmates with mental illness in segregation than in the general population. And, once these individuals are placed in solitary, they stay there. Some stay in segregation for years.[5]
- In Illinois, some inmates with mental illness have been confined in the Tamms supermax facility for more than 10 years. The extreme isolation and social isolation characteristic of this facility has only led to a worsening of symptoms, which in a perverse catch 22 scenario, has led to even longer confinement. One inmate with a history of mental illness was placed in a strip cell as "punishment" for cutting off a piece of his own genitalia.[6]

Incredibly, solitary confinement is even used for juveniles, particularly as a way to protect youth under age 18 who are placed in adult correctional facilities. The damaging effects of solitary confinement on juveniles whose brains are still developing can be

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[5] Jeff Gerritt, "Mentally Ill get Punishment Instead of Treatment," *Detroit Free Press*, February 5, 2012, accessed at http://www.freep.com/article/20120205/OPINION02/202050442/PUNISHMENT-INSTEAD-OF-TREATMENT-Hundreds-of-Michigan-s-mentally-ill-inmates-languish-in-solitary-confinement-lost-in-a-prison-system-ill-equipped-to-treat-them

[6] G. Pawlaczyk and B. Hundsdorfer, "Inmate Wants out of Tamms; Attorney Says Years of Solitary Confinemente have Harmed his Mental Health," *Belleville News-Democrat*, August 29, 2011, accessed at http://www.bnd.com/2011/08/28/1837463/inmate-wants-opportunity-to-get.html

permanent. Juveniles placed in solitary confinement are particularly vulnerable to suicides. According to the Campaign for Youth Justice, data shows that juveniles are 19 times more likely to kill themselves in isolation than in general population.[7]

Solitary Confinement Worsens Psychiatric Symptoms and Causes Extreme Suffering

Placement in segregated units, whether in supermax facilities or in other forms of solitary confinement, is characterized by extreme isolation and social deprivation. Typically, inmates in these units spend 23 to 24 hours a day in small cells with no social contact. They are also deprived of books, radios, or any other form of activity to divert their minds from their horrendous living circumstances.

The negative effects of solitary confinement on inmates with mental illness have been well documented. These negative effects include worsening of psychiatric symptoms such as paranoia, extreme anxiety and depression, increased suicides and suicide attempts, sleep disturbances, hallucinations, and self-mutilation. Craig Haney, a psychologist and leading expert on the psychological effects of solitary confinement, has stated that "there are few if any forms of imprisonment that appear to produce so much psychological trauma and in which so many symptoms of psychopathology are manifested" as with supermax facilities and other forms of solitary confinement.[8]

For some individuals, the damage caused by these placements can be permanent and irreversible. In his seminal 2003 article in *Crime and Delinquincy*, Dr. Haney documents the loss of functionality that frequently occurs among those placed in long

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[7] Campaign for Youth Justice, "Key Facts: Youth in the Justice System," April 2012, accessed at http://www.campaignforyouthjustice.org/documents/KeyYouthCrimeFacts.pdf

[8] C. Haney, "Mental Health Issues in Long-Term Solitary and "Supermax" Confinement," *Crime and Delinquincy* 49: 125 (2003).

term segregation. He describes adverse functional consequences such as chronic apathy, inability to begin or complete mundane tasks, inability to maintain concentration and attention, and extreme difficulties in interacting with others.[9]

Long-term placement in solitary confinement inevitably has an adverse impact on a person's capacity to successfully reenter society, an important factor since many individuals with serious mental illness who are in solitary confinement have been convicted of relatively minor crimes and will eventually be released into the community without any meaningful help to successfully make this transition.

Positive Reforms are Underway in Some States

In recent years, a number of states have begun moving away from supermax facilities and the regular use of solitary confinement in corrections. This trend reflects recognition both of the high costs of supermax facilities and other forms of solitary confinement and understanding that long term segregation and isolation is counter-productive, costly, and very likely worsens psychiatric symptoms and decreases the chances of recovery and successful community reentry.

For example, in 2008, New York State enacted a law imposing significant limits on the use and duration of confinement of inmates with serious mental illness in segregated housing units (also called "special housing units") and alternatively established residential mental health treatment units for these individuals.[10]

Recently, Colorado announced that it will eliminate 316 solitary confinement beds in its Centennial Correctional Facility. This cost-saving measure was followed a

[9] Haney, Id at 140.
[10] Consolidated Laws of New York, Mental Hygiene Law, Article 45, Sect. 45.07

gradual decrease in the use of solitary confinement in Colorado's prisons, coupled with efforts to establish mental health alternatives to solitary confinement in these prisons.[11]

Mississippi, a state that was notorious in the 1990's for the large numbers of inmates in supermax units at Parchman State Penitentiary, has reduced the number of supermax prisoners by more than three-quarters in recent years. It did so by investing in a number of alternative programs, including enhanced mental health treatment programs, crisis response training for its correctional officers and mental health step down units as an alternative to solitary confinement.[12] These steps have proven to be beneficial in multiple ways, including reductions in violence and savings of $5.6 million a year, according to Emmitt Sparkman, Deputy Commissioner of the Mississippi Department of Corrections.[13]

In 2011, Maine cut its population of inmates in the state prison supermax unit by more than 50 percent and is implementing many other reforms designed to reduce the use of supermax even further. Many of these reforms focus on improving responses to inmates with mental illnesses. For example, the state is looking at moving the mental health unit out of the supermax to another part of the prison system.[14]

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[11] Maes, D., "Victory in Colorado: Closing Solitary Confinement Unit Good for Budget and Public Safety," https://www.aclu.org/blog/prisoners-rights/victory-colorado-closing-solitary-confinement-unit-good-budget-and-public, accessed 3/31/2012.

[12] A. Brown, A. Cambier, and S. Agha, "Prisons within Prisons: The Use of Segregation in the United States," *Federal Sentencing Reporter,* Vol. 24, No. 1, pp 46-49, http://www.jstor.org/stable/pdfplus/10.1525/fsr.2011.24.1.46.pdf?acceptTC=true, accessed 3/31/2012.

[13] Vera Institute of Justice, "Mississippi DOC's Emmitt Sparkman on Reducing the Use of Segregation in Prisons," http://www.vera.org/blog/mississippi-docs-emmitt-sparkman-reducing-use-segregation-prisons, accessed 3/31/2012.

[14] Lance Tapley, "Reform Comes to the Supermax," The *Portland Phoenix,* May 25, 2011, http://portland.thephoenix.com/news/121171-reform-comes-to-the-supermax/?page=5#TOPCONTENT

Additional states, such as California, are implementing or considering measures to reduce the use of solitary confinement.[15] States that have gone down this path have reduced costs significantly, freeing correctional resources for other purposes. Violent incidents among inmates formerly in supermax have decreased as well.

Recommendations

Steps can be taken at the federal level to address the need to reduce or eliminate the use of solitary confinement in federal and state prisons.

First, Congress should mandate meaningful reforms and reductions in the use of solitary confinement by tying federal funding of prisons to good faith efforts by states to establish alternatives to the use of solitary confinement and to document reductions in the numbers of individuals placed in solitary confinement. And, Congress should make it clear that the use of solitary confinement with prisoners who have mental illnesses in federally funded prisons is prohibited.

Second, the Prison Litigation Reform Act (PLRA) should be amended to more effectively permit federal courts to remedy abuses occurring in solitary confinement units. Currently, the PLRA serves as a restriction on the ability to seek federal remedies for these aversive practices.

Third, the Mentally Ill Offender Treatment and Crime Reduction Act (MIOTCRA) and other federal programs intended to support alternatives to incarceration for juveniles and adults with mental illness and/or addictions disorders, including those who are veterans, should be fully funded.

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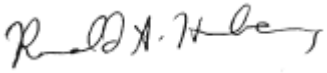
[15] Erica Goode, "Fighting a Drawn Out Battle Against Solitary Confinement," *New York Times,* March 30, 2012.

NAMI appreciates the opportunity to provide testimony on this important issue. Please contact me, Ron Honberg, at (703) 516-7972 or RonH@nami.org, if we can be of further assistance.

Respectfully Submitted,



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