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SENATE MEMORIAL 40

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Mary Kay Papen

A MEMORIAL

REQUESTING THE NEW MEXICO SENTENCING COMMISSION TO CONVENE A WORKING GROUP TO GATHER INFORMATION REGARDING THE USE OF SOLITARY CONFINEMENT IN NEW MEXICO PUBLIC AND PRIVATE CORRECTIONAL FACILITIES, TO DETERMINE THE IMPACT OF SOLITARY CONFINEMENT ON INMATES AND TO ASSESS THE EFFECTIVENESS OF SOLITARY CONFINEMENT IN REDUCING PROBLEMS AND COSTS.

WHEREAS, the primary goal for incarceration is to improve public safety and decrease recidivism; and

WHEREAS, according to corrections department statistics, nearly ninety-five percent of all inmates incarcerated in state prisons will return to their respective communities; and

WHEREAS, nearly one-half of all prisoners released from a New Mexico prison are unsuccessful in their transition to the community, as demonstrated by published recidivism rates; and

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1 WHEREAS, offenders are entitled to a safe and humane
2 environment while in prison; and

3 WHEREAS, a balanced correctional approach for offenders,
4 from incarceration to community-based supervision, includes
5 training, education, programs and services to provide the best
6 opportunity for offenders to transition to communities; and

7 WHEREAS, the average cost to incarcerate an inmate in New
8 Mexico is thirty-nine thousand dollars (\$39,000) per year, and
9 the cost of solitary confinement exceeds the average cost of
10 incarceration; and

11 WHEREAS, approximately eighty-five percent of New Mexico
12 offenders have substance abuse problems, and many have
13 co-occurring disorders defined as both diagnosable substance
14 use and a mental health disorder; and

15 WHEREAS, the term "segregated solitary housing" means the
16 housing of an inmate in conditions characterized by substantial
17 isolation from other prisoners pursuant to disciplinary,
18 administrative or classification action, restricting the
19 prisoner to the assigned living quarters; and

20 WHEREAS, while in segregated solitary housing, an
21 inmate's movement and privileges are significantly restricted
22 compared to those enjoyed by prisoners in the general
23 population, including segregation that may be for twenty-three
24 hours a day or more in which the prisoner is given only
25 extremely limited or no opportunities for direct and normal

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1 social contact with other persons and is afforded extremely
2 limited, if any, access to meaningful programming of any kind;
3 and

4 WHEREAS, the term "long-term segregated solitary housing"
5 means segregated housing that is expected to extend or does
6 extend for a period of time exceeding thirty days; and

7 WHEREAS, Stuart Grassian, a Massachusetts psychiatrist
8 specializing in the psychological effects of solitary
9 confinement, described the isolation and lack of stimulation
10 experienced by inmates in solitary confinement as toxic to
11 mental functioning, stating that "they become a greater danger
12 to the security staff and they become an enormous danger when
13 they are released to the community"; and

14 WHEREAS, in a March 30, 2009 article in *The New Yorker*
15 magazine, United States Senator John McCain is quoted as
16 saying, "It's an awful thing, solitary, ... It crushes your
17 spirit and weakens your resistance more effectively than any
18 other form of mistreatment."; and

19 WHEREAS, isolation can be psychologically harmful to any
20 prisoner, with the nature and severity of the impact depending
21 on the individual, the duration of the isolation and the
22 particular conditions of confinement; and

23 WHEREAS, some states, such as Mississippi, Texas and
24 Illinois, have decreased the number of inmates in solitary
25 confinement in response to budget pressures, legal challenges

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1 and concerns about the punishment's effectiveness; and

2 WHEREAS, the Mississippi department of corrections,
3 spurred by federal lawsuits over deteriorating prison
4 conditions, sharply reduced solitary confinement numbers over
5 the past two years, from nearly one thousand inmates to about
6 one hundred fifty inmates, and saved an estimated six million
7 dollars (\$6,000,000) without experiencing any increase in
8 safety problems; and

9 WHEREAS, the Mississippi department of corrections has
10 developed alternatives to solitary confinement and has
11 identified improved approaches to accommodating prisoners with
12 mental illness; its model has led to fewer incidents of
13 violence among prisoners and between inmates and prison staff;
14 and

15 WHEREAS, forty states and the federal government now
16 operate either maximum security prisons or special segregation
17 units within prisons in which prisoners remain in their cells
18 at least twenty-two hours a day, according to a study by
19 Florida state university; and

20 WHEREAS, at any given time, between twenty-five thousand
21 and one hundred thousand prisoners in the United States are
22 serving time in either permanent or temporary solitary
23 confinement, and that number continues to increase; and

24 WHEREAS, a 2006 study by the commission on safety and
25 abuse in America's prisons found that isolating prisoners can

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1 be twice as costly as standard incarceration, due to the fact
2 that an offender in a single cell requires at least two guards
3 to escort the offender to shower or recreation areas; and

4 WHEREAS, that same report found that solitary confinement
5 does more harm than good, is more expensive and does little to
6 improve prison security or reduce violence; and

7 WHEREAS, responding to that report, United States Senator
8 Tom Coburn, chair of the senate judiciary subcommittee on
9 corrections and rehabilitation, stated that "For the vast
10 majority of inmates prison is a temporary, not a final,
11 destination. The experiences inmates have in prison – whether
12 violent or redemptive – do not stay within prison walls, but
13 spill over into the rest of society. Federal, state, and local
14 governments must address the problems faced by their respective
15 institutions and develop tangible and attainable solutions.";

16 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE
17 OF NEW MEXICO that the New Mexico sentencing commission be
18 requested to convene a working group to gather information
19 regarding the use of solitary confinement in public and private
20 correctional facilities in New Mexico, to determine the impact
21 of solitary confinement on inmates and to assess the
22 effectiveness of solitary confinement in reducing problems and
23 costs; and

24 BE IT FURTHER RESOLVED that the working group include
25 representation from the corrections department, the veterans'

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1 services department, disability rights New Mexico, the New
2 Mexico psychological association, the psychiatric medical
3 association of New Mexico, the American civil liberties union,
4 the New Mexico medical society, the American medical
5 association, the New Mexico women's justice project, the New
6 Mexico faith community and the juvenile justice division of the
7 children, youth and families department and a former district
8 court of appeals or New Mexico supreme court judge; and

9 BE IT FURTHER RESOLVED that the working group gather
10 information regarding the effectiveness of prisoner
11 classification levels, criteria for placing an inmate in
12 solitary confinement, whether staff working with prisoners in
13 solitary confinement receive any specialized training, the
14 results of any evaluations of the process of solitary
15 confinement in New Mexico and other states and the
16 effectiveness of step-down units to transition inmates from
17 solitary confinement to ordinary incarceration or to the
18 community; and

19 BE IT FURTHER RESOLVED that the working group collect data
20 and statistics regarding the number of inmates in solitary
21 confinement in New Mexico with mental illness, the number of
22 mental health professionals who work with inmates in solitary
23 confinement, the number of suicides committed by inmates held
24 in solitary confinement and other relevant data as identified
25 by the task force; and

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BE IT FURTHER RESOLVED that the working group examine and describe the conditions of solitary confinement in New Mexico public and private prisons; and

BE IT FURTHER RESOLVED that an initial report of the findings and recommendations of the working group be presented to the appropriate interim legislative committee by October 2012, and that a final report of the findings and recommendations of the working group be presented to the appropriate interim legislative committee by October 2013; and

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the New Mexico sentencing commission and to all other proposed members of the working group.