

RESOLUTION 07-01-2016

DIGEST

Prisons: Elimination of Daytime Solitary Confinement

Adds Penal Code section 2652.1 to ban daytime solitary confinement.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to add Penal Code section 2652.1 to read as follows:

1 §2652.1
2 (a) It shall be unlawful to hold an incarcerated person in a condition of solitary
3 confinement.
4 (b) For purposes of this section, the following definition shall apply:
5 (1) “Solitary confinement” means the involuntary placement of an incarcerated person in
6 a locked sleep room or cell, during hours other than a facility’s sleeping hours, with minimal or
7 no opportunities for direct and normal social contact with persons other than guards, correctional
8 facility staff, and attorneys. Direct and normal social contact is contact that is not mediated by
9 bars, restraints, security glass, screens, and the like. Solitary confinement does not include
10 confinement of a person in a single-person room or cell for brief periods of locked-room
11 confinement necessary for required institutional operations.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: National Lawyers Guild – San Francisco Bay Area Chapter

STATEMENT OF REASONS

The Problem: This resolution recommends abolishing solitary confinement. Solitary confinement is torture and inconsistent with Constitutional and democratic principles. Juan Méndez, UN Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment, declared in August 2011 that even after just 15 days, solitary confinement amounts to torture; furthermore, any time served in isolation exceeding 15 days has serious and often permanent psychological and physical effects. Long-term solitary confinement violates Articles 7 and 10 of the International Covenant on Civil and Political Rights.

Experts estimate that one third of people in solitary have a mental illness; even those who do not enter isolation with a mental illness are apt to develop one because of the trauma solitary confinement inflicts upon the human psyche. In California, although less than 10% of our state’s prison population was held in isolation units in 2004, those units accounted for 73% of all suicides. These shattering impacts of solitary confinement are so well-documented that nearly every federal court to consider the question of whether placing the severely mentally ill in such conditions is cruel and unusual punishment has found a constitutional violation.

The Solution: Solitary confinement’s social and financial cost to society is unacceptably high. Research in California suggests that recidivism for prisoners subjected to solitary confinement is as much as 20% higher than those held in the general population. Despite its political popularity, there is little evidence about the goals, impacts or relative cost-effectiveness of using solitary confinement as a corrections tool. A California study found that supermax prisons have not only failed to isolate or reduce violence in the overall statewide system, but in fact all measures of violence in the system suggest it has increased. In the overuse of solitary confinement, people are suffering lifelong damage that they take home with them to their families, friends, and communities. Ninety-five percent of all people in prison are eventually released back into the public, rarely with any form of treatment or therapy that would ease the shock and facilitate the transition of returning to one’s “normal” life. In California, for example, data show that nearly 40% of the prisoners in segregation units are released directly to the community without first transitioning to lower security units.

The crisis of solitary confinement arises from many years of misbegotten policy, including the bipartisan “War on Drugs” and other “tough on crime” policies that disproportionately affect poor black communities and other marginalized groups. This crisis is rooted in our nation’s legacy of racial discrimination and oppression.

Solitary confinement must be abolished.

IMPACT STATEMENT

This proposed resolution does not affect any other law, statute or rule.

CURRENT OR PRIOR RELATED LEGISLATION

Not known.

AUTHOR AND/OR PERMANENT CONTACT: Richard P. Koch, 268 Bush St. #3237, San Francisco, CA 94104 (415) 397-1060, Fax (415) 397-3077, rpkoch1@sbcglobal.net

RESPONSIBLE FLOOR DELEGATE: Richard P. Koch

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RESOLUTIONS COMMITTEE RECOMMENDATION

The CCBA’s Resolutions Committee recommended Disapproval of this resolution. The full Conference rejected that recommendation and approved the resolution.

COUNTERARGUMENT

SAN DIEGO COUNTY BAR ASSOCIATION

The San Diego County Bar Association delegation recommended Disapproval of this resolution. The full Conference rejected that recommendation and approved the resolution.