

**Testimony of
The Rev. Jonathan M. Barton, General Minister
Virginia Council of Churches
Before the
Senate Judiciary Committee
Subcommittee on the Constitution, Civil Rights and Human Rights
Hearing on Reassessing Solitary Confinement
February 25, 2014**

Mr. Chairman, members of the Senate Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights, my name is Jonathan Barton and I serve as the General Minister for the Virginia Council of Churches. Thank you for this opportunity to submit testimony on behalf of the council concerning the harmful use of solitary confinement in our nation's federal prisons, jails, and detention centers. I would like to express my appreciation to Senator Durbin for his leadership in convening this second Congressional hearing on use of solitary confinement within our correctional system. While we are encouraged that a growing number of states across the nation are reassessing this practice and implementing policies to limit its use; the use of solitary confinement has increased dramatically in the last few decades. The Commission on Safety and Abuse in American's Prisons noted in their report, *Confronting Confinement*, that from 1995 to 2000, the growth rate of segregation units significantly surpassed the prison growth rate overall: 40% compared to 28%. In May 2013, a U.S. Government Accountability Office report on the use of segregation¹ concluded that the Federal Bureau of Prisons has failed to evaluate the impact of solitary confinement on institutional safety and the well-being of prisoners, despite a 17 percent increase in its use of solitary confinement between 2008 and 2013. In addition, the use of solitary confinement is economically costly though the effectiveness of its use has not been established. Supermax prisons, which are comprised of all

1 Improvements Needed in Bureau of Prisons' Monitoring and Evaluation of Impact of Segregated Housing GAO-13-429; Published: May 1, 2013. Publicly Released: May 31, 2013.

isolation cells, cost generally two or three times more to build and operate than traditional maximum security prisons. Rather than a last resort, solitary confinement has become a morally and economically costly default management and discipline tool. This unfortunately represents a growing cruel and usual punishment tempting the integrity of the eighth amendment of the constitution. In light of the high cost of solitary confinement and its diminishing returns, we are grateful for your timely review of the federal system's use of isolation today.

The Virginia Council of Churches brings together thirty-six governing bodies of eighteen different Catholic, Protestant, and Orthodox denominations within the Commonwealth of Virginia. For seven decades, the Virginia Council of Churches has stood for fairness, justice and the dignity of all peoples. We stand here today in faith, grounded in our history and our values. We believe and value the inherent dignity of all human beings, the Divine image in which we have all been created. Scripture tells us that God said, "It is not good for a man to be alone." Human beings are meant to live in community with others, this is the message of this passage from Genesis 2. Jewish, Christian, and Muslim scriptures all affirm that human beings need each other physically, mentally and spiritually. Across our nation prisoners, inmates, and detainees are being confined in tiny cells for 22-24 hours per day for weeks, months, even years. Many studies have documented the detrimental psychological and physiological effects of long-term solitary confinement, including hallucinations, perceptual distortions, panic attacks, and suicidal ideation. Considering this severe harm, we strongly believe prolonged solitary confinement is a violation of the inherent God-given dignity in every human being.

The drastic rise in solitary confinement has cost us financially. Super-max prisons are much more expensive than standard facilities to build. Additionally, the daily cost per inmate in a solitary confinement unit far exceeds the costs of housing an inmate in lower security facility

since solitary confinement units require individual cells and significantly more staff. At a November 2013 Senate Committee on the Judiciary hearing, "Oversight of the Bureau of Prisons & Cost-Effective Strategies for Reducing Recidivism," BOP Director Charles Samuels testified about plans for activating a new federal supermax prison in Thomson, Illinois as an Administrative Maximum (ADX) facility. The only ADX facility currently within the BOP, located in Florence, Colorado, is comprised of 623 beds, 450 of which are filled. The new facility in Thomson, IL is a 2,100-bed facility.

As leaders of religious communities, we oppose the addition of any new supermax beds in the federal system and call on the Bureau of Prisons to focus on reducing the number of people in isolation, not adding new segregation beds. We call on all members of this committee to lend their leadership in working with the BOP to ensure that the Thomson facility receives a lower security classification and not activated as an ADX supermax prison. To add 2,100 new supermax beds to the Federal system would only exacerbate the unconstitutional human rights crisis already faced in federal facilities. For people of faith, to retrofit Thomson prison as an ADX supermax is morally inexcusable.

In my home state of Virginia, in recent years we have seen some traumatic improvements since a visit by members of our General Assembly led by Delegate Patrick Hope of Arlington County, in 2011 to the Red Onion Supermax prison located in Wise County Wise County, VA. In September of had the opportunity to visit Red Onion and see conditions first hand. At that time Del. Hope concluded, "Many of these prisoners have a very serious mental illness or become seriously mentally ill primarily to their segregation. With a trend in other States moving away from this kind of confinement, maybe it's time we took a hard look at what Virginia is doing and see if we can do it better in a safe and more humane way." Shortly after this visit Virginia did

make significant moves the Department of Corrections implemented an innovative Administrative Step-Down program, partnering Red Onion State Prison (ROSP) and with neighboring Wallens Ridge State Prison. This program was nationally recognized on July 30, 2013 when VADOC officials received the State Transformation in Action (STAR) Award from the Council of State Government's Southern Legislative Conference (SLC) at the organization's 67th Annual Meeting.

Prior to the Administrative Step-Down program, which was initiated in 2011, Red Onion State Prison housed only high-risk Administrative Segregation-status offenders. The Step-Down initiative gives Segregation-status offenders a more systematic programmatic opportunity and more pathways to a lower security status and lower security prisons. As a result since implementation in late 2011 there has been a 64% reduction in administrative segregation assignments. Of the 511 offenders who have been involved in the program and 337 successfully stepped down to general population assignments. According to the Department of Corrections the number of serious incidents with administrative segregation offenders have declined by 76% and offender grievances and informal complaints have declined by 79%. With the final result of twenty six (26%) percent of the offenders that work in the prisons' food services are Step Down program graduates. "We have used data and research—evidence-based practices—to inform this program and that, along with incredible teamwork, is what is making this so successful," said VADOC Director Harold Clarke. "Public safety is increased when high-risk offenders receive this type of programming before they are released back to our communities."

While we celebrate these benchmarks and congratulate Director Clark as people of faith we believe each person is made in the image of God, and we remain concerned about the mental health of those imprisoned in the Commonwealth. The severe mental pain caused by prolonged

solitary confinement violates this God-given dignity. Solitary confinement is known to cause severe harm to human beings. Inmates in solitary confinement are often held alone in small cells for up to 23 hours per day. As a result, many experience paranoia, delusions, and other long-term mental harm. As reported by the *Washington Post* in 2011, leading up to the policy changes, prisoners at Red Onion, Virginia's Supermax prison, had been kept in solitary confinement from anywhere between two weeks and seven years, with an average length of stay of 2.7 years. In addition, Virginia prison officials reported that over a third of the individuals placed in solitary confinement at Red Onion State Prison are mentally ill. These individuals' illnesses are often dramatically magnified when held in solitary confinement. Ironically, the mental effects of solitary confinement can prevent the good behavior often required to move back into the general prison population. Our Scriptures admonish us "Remember those in prison, as though you were in prison with them; those who are being tortured, as though you yourselves were being tortured." (Hebrews 13:3.)

While we applaud the implementation of a step down program to begin to decrease the use of isolation in Virginia state prisons, we remain deeply concerned about inmates with severe mental illness who may not benefit from these reforms. We recognize that prisoners who suffer with mental illness or who developed mental illness because of their confinement in solitary confinement are not helped by 'step down' reform. Therapeutic alternatives are necessary, both at the state and federal level to adequately address the needs of our prison populations with seriously mental illness. As people of faith, we affirm the warehousing of those with mental

illness without proper treatment constitutes “cruel and unusual punishment.”² These are not just the concerns of the law enforcement community or the friends and family of inmates but as Virginia State Senator Ebbin and Delegates Hope and our new Attorney General Mark Herring have rightly pointed out, all Virginians have a stake in limiting the use of solitary confinement.

The mental harm caused by solitary confinement severely damages prisoners’ capacity to think critically and to consciously opt for a new way to live. As reported by the *New Yorker*, Electroencephalogram tests since the 1960s have shown that solitary confinement causes significant slowing of brain waves after even only a week of isolation. In addition, one study found that extended solitary confinement caused the same brain abnormality as traumatic brain injury. The Commission on Safety and Abuse in America’s Prisons, a national bipartisan taskforce established in 2006, noted that among the dozens of studies on the use of solitary confinement conducted since the 1970s, there was not a single study of non-voluntary solitary confinement for more than 10 days that did not document negative psychiatric results in its subjects. Default reliance on prolonged solitary confinement is ineffective and destructive.

The success of several states demonstrates that solitary is not the only, or best, option. Initiatives are advancing in a number of states including New York and California to address the use of solitary confinement. Several states including Mississippi, Maine, and Colorado have reduced their use of isolation and have proven there are safe alternatives. In an interview with the National Religious Campaign Against Torture, Maine Department of Corrections Commissioner, Joseph Ponte, explained, “Over time, the more data we’re pulling is showing that

2 “Mentally ill prisoners in solitary confinement left behind” by Hope R.

Amezquita, *The Roanoke Times*, September 30, 2013.

what we're doing now [through greatly reducing the use of solitary confinement] is safer than what we were doing before." Further, we must not neglect the larger public safety impact. The negative effects of prolonged solitary confinement harm our communities. Prisoners who are freed directly from solitary confinement cells are significantly more likely to commit crimes again. Successful reentry of these citizens to our local communities requires preparation for release while they are still incarcerated.

Mr. Chairman, Members of the Subcommittee, the Virginia Council of Churches believes strongly that the United States should do everything it can to reverse our nation's harmful and expensive reliance on solitary confinement. We have a moral obligation to uphold the dignity and the mental health of those currently incarcerated. To that end, we would strongly support your leadership in sponsoring legislation that would limit the use and length of solitary confinement and in providing mental health treatment alternatives. We implore you to take steps immediately to end the use of prolonged solitary confinement. Your hearing today is a very important effort in doing that, and we thank you for the opportunity to contribute to it.