Reform comes to the Supermax

By Lance Tapley
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*New commissioner cuts population by more than half; prisoner-rights advocates help in the reform*

Less than three months into his job, Maine's new corrections commissioner Joseph Ponte has begun to dramatically reform the Maine State Prison's long-troubled solitary-confinement "supermax" unit.

He has cut its population by more than half.

He has stopped — so far, after several weeks under his new rules — its brutal "cell extractions" by guards of uncooperative inmates. Extractions normally end with inmates strapped into a restraint chair. There were 54 extractions in 2010 and 74 in 2009, the Department of Corrections says, and before publicity about them in recent years the annual number was in the hundreds. (See "Torture in Maine's Prison," by Lance Tapley, November 11, 2005.)

Ponte also has ordered that an inmate can't be placed in the supermax for longer than 72 hours without his personal approval.

His approach to the supermax, while provoking grumbling from some staff at the Warren prison, is applauded by prisoner-rights activists. To press on with reforms, Ponte has created a department-wide committee to which he has added representation from activists. The committee is being guided by the recommendations of a remarkably bold report commissioned last year by the Legislature at the behest of activists.

"I'm holding all of their feet to the fire," Ponte says of prison staff. But he believes that with time and training those who oppose what he's doing will accept the new direction.

Ponte has made supermax problems a top department priority. Besides guard violence in handling inmates, the 132-cell facility, officially the Special Management Unit or SMU, has been beset by suspicious inmate deaths, suicide attempts, inmates cutting themselves, hunger strikes, and assaults on guards — especially, deranged or incensed prisoners throwing their feces, urine, or blood at them.

Ponte's solutions include challenging a one-size-fits-all correctional-officer attitude quick to punish prisoners with solitary confinement for the slightest infraction — and then to let them languish in isolation for weeks, months, or even years. Because of this attitude, the supermax was largely full for years. But as of May 19 it was down to 60 inmates.

As alternatives to solitary when prisoners do things they shouldn't, he has asked guards to use what he calls "informal sanctions," like taking away commissary or recreation privileges. And he stopped the practice of keeping people in the supermax beyond the term of their punishment
because there wasn't a bed available in a particular housing unit. The prison actually has plenty of unoccupied cells. After a reorganization of prison and jail housing during the past few years, it has an empty 60-bed unit.

Sometimes inmates being investigated for in-prison crimes stayed in the supermax for months as investigations dragged on. Ponte has imposed a seven-day limit on such stays.

A quiet, unpretentious, 64-year-old Massachusetts native (see "At a Turning Point," by Lance Tapley, February 11), the new commissioner has taken care not to force his reforms in a dictatorial way. To transform the supermax — and the smaller, 22-cell version of it at the medium-security Maine Correctional Center in Windham — he created a 19-person committee composed of top corrections officials and three public members, Rachel Talbot Ross of the NAACP, Jim Bergin of the Maine Prisoner Advocacy Coalition (MPAC), and Jon Wilson, chairman of the state prison's board of visitors. The committee meets weekly.

Its chairman is Rodney Bouffard, superintendent of South Portland's Long Creek Youth Development Center, a lockup for adolescents. Reflecting his background, Bouffard takes a mental-health-treatment stance rather than a punishment approach to corrections. As a measure of his approach's success, he can point to low recidivism (return-to-crime) rates of offenders released from Long Creek. (See "Lock-up Lessons," by Lance Tapley, April 15.)

Ponte has tasked the committee specifically with putting into practice the recommendations of another group of mostly corrections officials who worked for a year studying solitary confinement and its related mental-health issues. Last year the department reported that more than half the inmates in the state-prison supermax were seriously mentally ill. It includes a 32-cell mental-health unit (on May 19 it contained 19 inmates).

The study group produced a report delivered to the Legislature's Criminal Justice Committee early this year. Legislators last year had ordered the study as a replacement for a bill they defeated that would have sharply restricted solitary confinement. National and Maine experts had testified at the bill's hearing that extended isolation deteriorates brains and behavior and is increasingly considered a form of torture. (For the report's recommendations, refer to the section below, "The Report: A Stunning Turnaround").

In the current legislative session, activists had pushed a bill to direct Corrections to "review and respond" to the recommendations. But the Criminal Justice Committee decided to kill the bill because Ponte had already begun to implement them.

Ponte thinks he can implement "95 to 98 percent" of the recommendations — without the need of much new funding. For instance, a recommendation to separate the mental-health unit from the rest of the supermax needn't mean the construction of an expensive new building, he says, but could be addressed by moving the mental-health unit to another part of the prison.

A different relationship
"For the first time in years we have a good relationship" with the corrections commissioner, Judy Garvey, an MPAC leader, told Criminal Justice Committee members at a recent hearing.

The Republican House chair of the committee, Representative Gary Plummer, of Windham, responded that he was pleased that he and other members had been "forced to look at" the issue of solitary confinement last year. Republican committee members had opposed both the bill restricting solitary confinement and the study, and Corrections had fought against both tooth and nail.

Zachary Heiden, a Maine Civil Liberties Union lawyer, says he's "very encouraged" by Corrections' new direction, including its turn away from being "adversarial" with prisoner-rights advocates. Heiden believes, however, that state appropriations may be needed to carry out some of the supermax report's recommendations. "They really need more staff in the mental-health unit," he says, to enable workers there to spend useful time with prisoners.

Harold Sanford Carter can testify to lack of time with the mental-health staff. A young, heavily tattooed supermax inmate interviewed at the state prison through a Plexiglas window in a "no-contact" booth, Carter says he's been promised group therapy for months, but all he receives is a few minutes with a therapist every two weeks.

Put in the supermax six months ago for allegedly spraying a guard with a fire extinguisher at the minimum-security Charleston Correctional Facility, Carter denies the assault but admits to a diagnosis of "antisocial personality disorder with impulsivity." An articulate man who has taken college courses on the outside, he regrets the lack of educational opportunities in the supermax. If he had the chance to further his education, he says, "I'd be all over it."

Carter says the changes Ponte has made are highly visible. "It used to be packed," he says of the supermax, but it's "a ghost town now." The commissioner has told guards to "talk down" agitated inmates, he says, instead of being quick to forcibly extract them from cells.

Joe Jackson, the thoughtful, middle-aged vice-president of the prison's NAACP inmate chapter, who also was interviewed at the prison, sees the document that Ponte is using as a guide as "overall, a good report." The supermax was in such a state, "Somebody had to do something." While Ponte is clearly making "a lot of changes," he says, inmates are still reserving judgment on him.

(Inmates tend to be skeptical about prison officials' actions. While this reporter was in the reception area waiting to be let into the visitors room to interview Jackson and Carter, a stocky inmate mopping the floor said to him, unexpectedly and quietly, "I'm still waiting for all the changes that are supposed to be occurring.")

Some guards, Jackson reports, are not happy with the changes Ponte has made. Carter agrees: "They say he's for the inmates." MPAC's Jim Bergin says the committee reviewing supermax and mental-health issues is grappling with how to re-educate guards: This "is probably the biggest problem we're dealing with."
Ponte knows his reforms are not what the staff has been taught before, but "I'm real happy with the progress we've made." As with his other plans, he hopes to retrain employees without spending much money on it. One way to do this is, he suggests, is getting Department of Health and Human Services mental-health experts involved, especially for the supermax mental-health personnel. And money may be saved as the supermax population decreases. Labor-intensive, high-tech solitary confinement is the most expensive kind of incarceration.

**Big problems remain**

Not all supermax problems are likely to be quickly solved, and not every recommendation of the report is universally supported — such as the suggestion that a law be passed to make it legally easier to force mentally ill inmates to take psychiatric medication.

Ponte says forced medication should only be considered for "the very violent, mentally ill offenders." The MCLU's Heiden, while conceding that the involuntary-medication permission process could be "streamlined," says the issue "has to be approached very carefully," given the general history of institutional abuse of psychiatric medication. Inmate Jackson notes that the ability to refuse medical treatment is "one of the only rights a prisoner has."

Complicating reform possibilities, supermax problems are tied to prison-wide conditions — for example, medical care. Complaints from inmates about the inadequacy or outright cruelty of medical care have long poured into the mailboxes of prisoner-rights activists — and of the Phoenix.

Two current legal actions involving the prison allege medical neglect. On May 13 the family of a sick inmate, Victor Valdez, who died in 2009 under disputed circumstances after being hauled to the supermax, notified the state it intends to file a $1-million-plus wrongful-death lawsuit against prison officials and employees of a national company, Correctional Medical Services (CMS), which provides nearly all health care in state correctional facilities. (See "A Prison Obituary," by Lance Tapley, July 30, 2010.) The same lawyer who filed that case, Scott Gardner, of Biddeford, is pressing a similar suit on behalf of the widow of Sheldon Weinstein, who died in 2009 in the supermax. (See "Suspect Speaks," by Lance Tapley, November 6, 2009.)

But Ponte is looking into the medical-care issue. He "quickly followed up on the initial complaints" about medical mistreatment that MPAC has relayed to him, says Judy Garvey. And the commissioner says he will put out to bid the contract for prison medical services, which he says hasn't been put out to bid for years. CMS is getting $13 million from Maine taxpayers in the current fiscal year. (The state also is paying $2.6 million for prisoner medication.)

Garvey and other activists think the ultimate solution for supermax problems is to close down much of the rest of it. Then its former inmates would have, for example, "room to exercise," she says (most supermax exercise is done in individual dog runs outdoors). They would be able to participate in educational programs. They wouldn't suffer the terrible mental and physical effects of isolation. In other words, they would be treated more like human beings.

In any case, Ponte is moving in that direction.
(SIDEBAR) **The report: a stunning turnaround**

The reforms taking place haven't all been because of Commissioner Ponte.

After consulting with people concerned with prisoner welfare, an interagency group of state and county officials — most with a background in corrections — wrote a 22-page, single-spaced report last year on improvements needed in the solitary-confinement Special Management Unit (SMU) or "supermax" of the Maine State Prison and in the Maine Correctional Center's similar, smaller unit. Requested by the Legislature, the report represents a stunning turnaround in official thinking about solitary confinement and the use of the SMUs.

With the bureaucratic title, "Final Report of Review of Due Process Procedures in Special Management Units at the Maine State Prison and the Maine Correctional Center," the report doesn't oppose solitary confinement per se, but it makes pull-no-punches recommendations to dramatically reduce the use of solitary and make the supermaxes more humane.

Its principal author was psychologist Steven Sherrets, who works for the Department of Health and Human Services as its liaison with Corrections on mental-health issues. He also serves on Ponte's committee implementing the report.

The report's recommendations constitute the template being using to transform the SMUs. It confirms much of what inmates and activists have been complaining about for years (and that the *Phoenix* has been reporting).

"This is one of the best reports I've received during all my time in the Legislature," says veteran Democratic Representative Anne Haskell, of Portland, who sits on the Criminal Justice Committee.

Here are some recommendations:

- SMUs should not be used for punishment, which is ineffective in changing behavior. (Punishment has been a major use.)
- More alternatives for "behavioral intervention" are needed in the prison general population, so the SMUs are not used so much. More help should be provided to inmates with "medical, cognitive, brain compromises, or serious mental illness." (These conditions are common.)
- Sensory deprivation, lack of social stimulation, and "extremely hot" cells in the summertime "with no discernible air flow" at the Windham women's SMU are special problems.
- Keeping inmates in the supermax because of a lack of available beds is a "serious concern."
- Investigations for in-prison crimes drag on while suspects suffer in the SMU. Instead, "investigations should be concluded in a timely fashion."
- Goals should be set to reduce cell extractions and the use of the restraint chair.
- The uniform treatment of SMU inmates should be questioned — such as having two guards escort all prisoners when they're outside their cell, and requiring all supermax prisoners to be separated from their visitors in no-contact booths.
- Mental-health care needs to be overhauled. There was "little evidence in any of the units that there was sufficient time for the mental-health staff to do any true, consistent therapy." More and
better-trained mental-health staff are needed. Medication should deal with "psychiatric symptoms" rather than "chemical restraint."

- The mental-health unit should be physically separated from the other supermax units and be jointly operated with the Department of Health and Human Services.
- A mental-health unit is needed for female prisoners.
- The law may need to be changed to allow for forced medication of some mentally ill prisoners.

(SIDEBAR) No mass punishment

There's a room in the Maine State Prison where inmates had been able to buy soda and snacks from vending machines, but after a prisoner damaged a machine the room was locked for weeks.

On a recent prison tour, Commissioner Ponte asked why the room was locked. When told, he said everybody in the prison shouldn't be punished because of one person's acts: "Unlock the door."

"He's not in favor of mass punishment," inmate Joe Jackson says approvingly. Jackson is one of two prisoners who volunteered this story; it was confirmed by Ponte.