

Opening Statement of Senator Dick Durbin
“Reassessing Solitary Confinement II:
The Human Rights, Fiscal, and Public Safety Consequences”

This Subcommittee has worked to address human-rights issues around the world, as we did with our hearing last month on the Syrian refugee crisis.

And we have an obligation to honestly consider our own human-rights record at home. The United States has the highest per capita rate of incarceration in the world – with five percent of the world’s population, we have close to 25 percent of its prisoners. African Americans and Hispanic Americans are incarcerated at much higher rates than whites. And the United States holds more prisoners in solitary confinement than any other democratic nation. These are human-rights issues that we cannot ignore.

Congress has been unable to find common ground on many important issues. But criminal justice reform is one area where we can show the American people that their government still functions.

We have made some progress. In 2010, Congress unanimously passed the Fair Sentencing Act, bipartisan legislation I authored with Senator Jeff Sessions that greatly reduced the sentencing disparity between crack and powder cocaine.

And just a few weeks ago, the Judiciary Committee reported the Smarter Sentencing Act, bipartisan legislation I introduced with Senator Mike Lee that would reform federal drug sentencing and focus law-enforcement resources on the most serious offenders. I want to thank my Ranking Member for cosponsoring the Smarter Sentencing Act.

I also want to thank Senator Cruz for his bipartisan cooperation in working on today’s hearing.

Almost two years ago, this Subcommittee held the first-ever Congressional hearing on solitary confinement. We heard testimony about the dramatic increase in the use of solitary confinement that began in the 1980’s. We learned that vulnerable groups like immigrants, children, sexual abuse victims, and individuals with serious and persistent mental illness are often held in isolation for long periods.

We heard about the serious fiscal impact of solitary. It costs almost three times more to keep a federal prisoner in segregation than in general population.

We learned about the human impact of holding tens of thousands of men, women, and children in small windowless cells 23 hours a day – for days, months, years – with very little, if any, contact with the outside world. Such extreme isolation can have serious psychological effects on inmates. According to several studies, at least half of all prison suicides occur in solitary confinement.

I will never forget the testimony of Anthony Graves, who was held in solitary for ten of his 18 years in prison before he was exonerated. Mr. Graves told this Subcommittee, “No one can

begin to imagine the psychological effects isolation has on another human being. Solitary confinement does one thing, it breaks a man's will to live." I have been Chairman of this Subcommittee for seven years and I have never heard more compelling testimony.

At the last hearing, we also heard from the Director of the Bureau of Prisons, Charles Samuels. Candidly, I was disappointed in Mr. Samuels's testimony. But I want to commend Mr. Samuels and his team, because they heard the message of our first hearing. At my request, Mr. Samuels agreed to the first-ever independent assessment of our federal prisons' solitary confinement policies and practices. This assessment is currently underway, and I look forward to an update today from Mr. Samuels.

At our 2012 hearing, we found that the overuse of solitary can present a serious threat to public safety, increasing violence inside and outside of prison. The reality is that the vast majority of prisoners held in isolation will be released someday. The damaging impact of their time in solitary – or their release directly from solitary – can make them a danger to themselves and their neighbors.

I want to note that today is the one-year anniversary of the tragic death of federal Correctional Officer Eric Williams, who was killed by an inmate in a high security prison in Pennsylvania. We owe it to correctional officers who put their lives on the line every day to do everything we can to protect their safety. Make no mistake, that means that some dangerous inmates must be held in segregated housing. But we also should learn from states like Maine and Mississippi, which have reduced violence in their prisons by reducing the overuse of solitary confinement.

And we must address the overcrowding crisis in federal prisons that has made prisons more dangerous and dramatically increased the inmate-to-correctional officer ratio. That's one important reason that I'm working to pass the Smarter Sentencing Act, which will significantly reduce prison overcrowding by inmates who have committed non-violent drug offenses. And it's one reason I'm working to open Thomson Correctional Center as a federal prison in my state. I look forward to working with the Bureau of Prisons to ensure that Thomson helps to alleviate overcrowding and that all prisoners held there are treated appropriately and humanely.

Let me say a word about an especially vulnerable group – children. According to the Justice Department, 35 percent of juveniles in custody report being held in solitary for some time. The mental health effects of even short periods of isolation – including depression and risk of suicide – are heightened in youth. That's why the American Academy of Child and Adolescent Psychiatry has called for a ban on solitary for children under 18.

At our first hearing, we heard about many promising reform efforts at the state level. As is so often the case, state governments continue to lead the way. To take just a few examples:

- Last year, my own state of Illinois closed its only supermax prison, Tamms Correctional Center, and relocated the remaining prisoners to other facilities.

- In the Ranking Member's home state of Texas, the state legislature last year passed legislation requiring an independent commission to conduct a comprehensive review of the use of solitary confinement in state prisons and jails.
- And New York has just announced sweeping reforms that will greatly limit the use of solitary confinement for juveniles and pregnant women.

There have been other positive developments since our first hearing. U.S. Immigration and Customs Enforcement issued important guidance limiting the use of solitary confinement for immigration detainees. This is a positive step for some of the most vulnerable individuals in detention, and I want to work with ICE to make sure the guidance is implemented effectively.

And the American Psychiatric Association issued a policy statement opposing the prolonged isolation of individuals with serious mental illness.

More must be done. That's why today I'm calling for all federal and state facilities to end the use of solitary confinement for juveniles, pregnant women, and individuals with serious and persistent mental illness, except in exceptional circumstances.

By reforming our solitary confinement practices, the United States can protect human rights, improve public safety, and be more fiscally responsible. It is the right and smart thing to do, and the American people deserve no less.