Testimony on LB 560
Before the Judiciary Committee
Nebraska Legislature
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Good afternoon Senator Ebke and members of the Judiciary Committee. For the record my name is Brad B-R-A-D Meurrens M-E-U-R-R-E-N-S and I am the Public Policy Director with Disability Rights Nebraska, the designated Protection and Advocacy organization for Nebraskans with Disabilities. I am here today in support of LB 560.

Solitary confinement/segregation has been demonstrated to have devastating impacts on the psychological health of inmates. The literature on solitary confinement is replete with stories of inmates who have remained in segregation or solitary confinement for weeks, months, even years. Once in segregation, the conditions generally worsen an inmate's psychiatric condition, which can then be used to justify keeping them in segregation. To this end, we support LB 560's creation of a right to have an inmate's continued stay in restrictive housing reviewed, although we wonder if, given the significant impact of solitary confinement on the psychological well-being of inmates and how these impacts can manifest even after a few days in solitary, the review trigger might not be shortened from 90 days.

The literature indicates that it is not exceptional for inmates with mental illness, frequently by the nature of their mental illness, to end up in solitary or segregation at higher rates than their cohorts without mental illness. Individuals with mental illness have more difficulty adjusting to prison conditions and are more likely to commit infractions. Consequently, studies have found some prisons with half of all inmates in segregation to be individuals with a diagnosable mental illness. Thus, we support the language in LB 560 to prohibit persons with serious mental illness from being placed in

restrictive housing, affirmatively addressing their risks and needs, as well as the bill's requirement that the definition of "solitary confinement" be updated to mirror the common definition in the literature.

We recommend that LB 560 be advanced.

Psychological Impact of Solitary

Despite early enthusiasm, concerns were raised over the psychological and health effects of solitary confinement as early as the 1820's. Seeing the effects of total isolation on inmates in a New York penitentiary was enough for the governor of the state to end it in 1821[1]. Reports in the 1840's from physicians in the New Jersey and Rhode Island state penitentiaries noted a decrease in psychotic behavior when inmates were removed from solitary confinement and were able to interact with each other[2]. In 1890, the U.S. Supreme Court surveyed the history of extreme isolation use among American prisons and identified devastating psychological effects:

> "A considerable number of the prisoners fell, after even a short confinement, into a semi-fatuous condition from which it was next to impossible to arouse them, and others became violently insane; others still committed suicide; while those who stood the ordeal better were not generally reformed, and in most cases did not recover sufficient mental activity to be of any service to the community"[3].

Stuart Grassian identified a variety of physiological and psychological symptoms exhibited by prisoners in Secure Housing Units (read: isolation/segregation) which he called "SHU Syndrome"[4]. The symptoms included social withdrawal, anxiety, panic attacks, irrational anger and rage, loss of impulse control, paranoia, hypersensitivity to external stimuli, chronic depression, difficulties with concentration and memory, perceptual distortions and hallucinations.

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[1] Smith, P. S. (2006). "The Effects of Solitary Confinement on Prison Inmates: A Brief History and Review of the Literature." *Crime and Justice*, *34*(1), 441–528.
[2] Ibid.
[3] 134 U.S. 160 (1890).
[4] Stuart Grassian, 2006, "Psychiatric Effects of Solitary Confinement", Washington University Journal of Law and Policy

Dr. Grassian concludes:

> "The restriction of environmental stimulation and social isolation associated with confinement in solitary are strikingly toxic to mental functioning, producing a stuporous condition associated with perceptual and cognitive impairment and affective disturbances. In more severe cases, inmates so confined have developed florid delirium—a confusional psychosis with intense agitation, fearfulness, and disorganization. But even those inmate[s] who are more psychologically resilient inevitably suffer severe psychological pain as a result of such confinement, especially when the confinement is prolonged, and especially when the individual experiences this confinement as being the product of an arbitrary exercise of power and intimidation. Moreover, the harm caused by such confinement may result in prolonged or permanent psychiatric disability, including impairments which may seriously reduce the inmate's capacity to reintegrate into the broader community upon release from prison."[5]

In his review of solitary confinement and 'Supermax' prisons, Dr. Craig Haney wrote that there is "an extensive empirical literature that clearly establishes their potential to inflict psychological pain and emotional damage."[6] Serious symptoms can occur in healthy individuals after only a few days in isolation.

O'Keefe and colleagues noted, "Inmates released directly from segregation to the streets had dramatically higher rates and severity of detected recidivism than inmates in Administrative Segregation who first released to General Population."[7]

A common argument used in justifying the use of segregation is that the prisoners are too dangerous to be released into the general population. While this may be true in some cases, lowering the number of prisoners in segregation has actually been associated in some cases with a decrease in violence. Our study on mental illness and

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[5] Ibid., p. 354

[6] Haney, C., 2003. "Mental Health Issues in Long-Term Solitary and "Supermax" Confinement", *Crime & Delinquency*, *49*(1), 124–156, http://cad.sagepub.com/content/49/1/124.abstract

[7] O'Keefe, M. L., Klebe, K. J., Metzner, J., Dvoskin, J., Fellner, J., & Stucker, A. (2013)."A Longitudinal Study of Administrative Segregation". *Journal of the American Academy of Psychiatry and the Law Online*, *41*(1), 49–60.

corrections[8] looked at the experiences of Mississippi, Washington, Virginia, and Colorado regarding the integration of inmates in segregation into the general population. Our report indicates that these states did not experience an increase in violence when reintegrating isolated inmates into the general population, largely due to increased mental health treatment provided to inmates in isolation/segregation and/or successful transition/"step down" programs. In December 2013, the Colorado Department of Corrections declared that individuals with "major mental illnesses" would no longer be sent to solitary confinement.

[8] See "Selected Issues in Mental Health and Corrections: A Collection and Summary of Research", at http://www.disabilityrightsnebraska.org/resources/mental-health-and-prison-reform.html . Page 8 highlights states' experiences with increased regulation of solitary confinement.