

HUMAN RIGHTS WATCH

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www.hrw.org

January 26, 2010

Senator Stan Gerzofsky and Representative Anne Haskell
Committee on Criminal Justice and Public Safety
Augusta, ME 04333

Re: Human Rights Watch supports LD 1611

Dear Senator Gerzofsky, Representative Haskell, and Members of the
Committee on Criminal Justice and Public Safety:

Human Rights Watch urges you to support LD 1611, which would
impose much-needed limits on the use of segregated confinement in
Maine prisons.

Human Rights Watch is the largest global human rights organization
headquartered in the United States. For more than a decade we have
documented the inappropriate use in the United States of
“supermax” prisons, special management units, and similar facilities
in which prisoners are subjected to isolated or segregated
confinement. Our reports on this subject include *Cold Storage:
Super-Maximum Security Confinement in Indiana*; *Red Onion State
Prison: Super-Maximum Security Confinement in Virginia*; and *Out of
Sight: Super-Maximum Security Confinement in the United States*. In
Ill-Equipped: U.S. Prisons and Offenders with Mental Illness, we
documented the devastating effects of isolated confinement on the
mentally ill.¹

Perhaps the most important provision of LD 1611 is a ban on
placement of prisoners with serious mental illness in the special
management unit. There is an abundant body of evidence that
isolated confinement can have catastrophic effects on the seriously
mentally ill, leading to exacerbation of their illness and sometimes to
self-mutilation and suicide. A number of courts have concluded that
segregated confinement of persons with serious mental illness
predictably leads to such extreme suffering that it violates the Eighth
Amendment to the US Constitution, which prohibits cruel and
unusual punishment. Indeed, one federal judge described putting a
person with severe mental illness in isolated confinement as “the
mental equivalent of putting an asthmatic in a place with little air to
breathe.”

¹ All of these reports are available on our website: www.hrw.org.

LD 1611 establishes other important limits on placement of prisoners in the special management unit. In many states, political pressure to fill expensive beds in such units has led to the transfer of “nuisance” prisoners who may have large numbers of minor disciplinary infractions but are not dangerous or disruptive. There have also been cases of prisoners placed in segregated confinement in retaliation for complaining about conditions, filing lawsuits, or other protected activities. LD 1611 ensures that prisoners will be placed in the special management unit only if they commit or attempt to commit a sexual assault, an escape from confinement, or an act of violence.

Finally, LD 1611 contains important procedural safeguards. Each prisoner facing confinement in the special management unit for more than 45 consecutive days would be entitled to notice of the reasons for the proposed confinement and a hearing at which the prisoner could present evidence in his defense. Prisoners held in the special management unit for more than 45 days would be reviewed periodically to determine whether they should remain at the facility. Special management unit prisoners would also be evaluated regularly by a mental health professional to ensure that they are not seriously mentally ill.

The United States has ratified two international human rights treaties that touch on the treatment of prisoners: the International Covenant on Civil and Political Rights, ratified in 1992, and the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, ratified in 1994. Monitoring bodies for both of these treaties have expressed concern about supermax and other high-security prisons in the United States, particularly the regime of extreme isolation that exists in these facilities. By placing substantive limits on special management unit confinement and adding procedural safeguards to ensure that those limits are respected, LD 1611 would be a significant step toward compliance with US treaty obligations.

For all of these reasons, Human Rights Watch urges you to support LD 1611. Please let me know if I can provide any further information or assistance.

Very truly yours,

A handwritten signature in blue ink that reads "David C. Fathi". The signature is fluid and cursive, with the first name "David" being the most prominent.

David C. Fathi
Director, US Program