

Spitzer, Lawmakers Agree to Limit Solitary for Mentally Ill Inmates

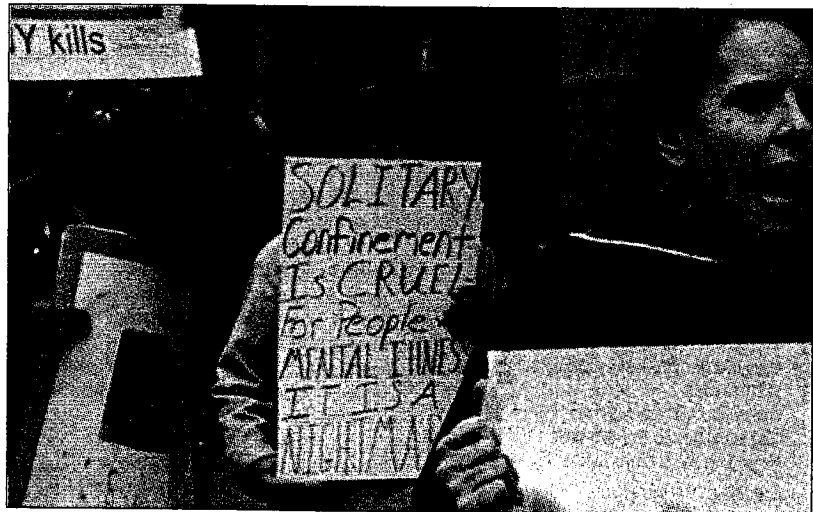
BY JOEL STASHENKO

ALBANY—Consigning state prison inmates with severe psychiatric illnesses to solitary confinement would, in most cases, be prohibited by legislation agreed to by Governor Elliot Spitzer and the state Legislature.

The Senate approved the measure, 60-0, on Monday and the Assembly is expected to follow suit when its members reconvene, said Assemblyman Jeffrion Aubry, chief sponsor of the bill in his chamber.

Inmate advocates have long criticized the confinement of mentally ill inmates in what are known as "special housing units," or SHUs, in New York's prison system. They argue prisoners often violate disciplinary rules because they are ill and by sending them to solitary confinement, inmates are essentially being punished for being sick.

Another prison practice decried by critics is feeding the "loaf" to inmates who misbehave while in solitary. The "loaf" is a pasty flour mixture that is served three times a day, usually accompanied by cabbage, for up to 30 days at a time. Under the agreed-to bill, mentally ill



Advocates rally last month at Governor Elliot Spitzer's Manhattan office in support of legislation to end solitary confinement for mentally ill inmates.

inmates would no longer be subject to the "loaf" regimen.

"We have a long history of misuse of the special housing units for inmates who have serious mental illnesses," said Mr. Aubry, a Queens Democrat who chairs the Assembly's Correction Committee. "In some cases, what it would mean is that someone would complete their entire sentence in SHU and then go back

into the community without being adequately treated. It might have kept the prison system safe, but it wasn't safe for the public having these people confined and made worse and then sent back into the community without treatment."

Subjecting mentally ill inmates to solitary is "state-inflicted brutality,"

Law Would Limit Solitary for Ill Inmates

Continued from page 1

said Robert Gangi, executive director of the Correctional Association of New York.

"It often leads to their decompensation and their need for intensive psychiatric care," Mr. Gangi said in an interview yesterday. "The rates of self-harm, the rates of suicide, are much higher for these inmates than for the general inmate population."

Under the legislation (A9342/S6422), severely mentally ill inmates facing disciplinary actions would be housed in newly created alternative housing units. There they would receive treatment and also be allowed out of their cells for four hours a day.

Inmates confined to special housing units get one hour each day outside their cells and, advocates say, little or no treatment if they are mentally ill.

The legislation designates the Commission on Quality of Care and Advocacy for Persons with Disabilities as the state watchdog to monitor housing and the level of treatment for mentally ill inmates. The commission is to regularly report to the governor and the Legislature on prisons' compliance with the law.

Currently, no agency or group comprehensively monitors the treatment of inmates with mental illnesses, said Harvey Rosenthal, executive director of the Association of Psychiatric Rehabilitation Services.

The law would not completely prohibit the mentally ill from being sent to special units. Prison administrators would still be able to do so when the safety of staff, other inmates or the mentally ill prisoner himself is at issue if he were moved to an alternative housing unit. Inmates who refuse to participate in treatment in alternative housing units could also be kept in solitary.

The legislation will build on—and, in some cases, codify—the terms of an agreement the state reached in April with Disability Advocates Inc. and the Legal Aid Society over the treatment of state prison inmates

with severe mental problems.

That agreement, which was approved by Southern District Judge Gerard Lynch, settled federal litigation filed against the state on behalf of mentally ill inmates, *Disability Advocates v. New York State Office of Mental Health*, 1:02-cv-04002 (NYLJ, May 28, 2002).

More Screening

The settlement requires more extensive screening of mentally ill inmates being sent to solitary and better treatment of them while they are confined. It also requires the state to explore the use of residential units for mentally ill inmates being segregated from the general prison population for disciplinary reasons and to let inmates out of their cells for two to four hours a day for treatment.

The Spitzer administration added \$9 million to the 2007-08 state budget for the creation of segregated housing units in state prison for the mentally ill. That additional funding, which brought to \$57.5 million the amount in the budget for services and treatment for mentally ill inmates, is expected to result in dedicated residence cells for about 300 prisoners.

Mr. Aubry estimated that at any one time, between 400 and 500 inmates with severe mental problems are in solitary confinement in state prisons.

In all, about 8,300 of the 64,000 inmates in state prisons have been diagnosed with some form of mental illness, according to the state Office of Mental Health. The plaintiffs in the Disability Advocates suit placed the number of mentally ill state inmates at twice the state's estimate.

The Department of Correctional Services operates about 100 behavior health units for the confinement of mentally ill inmates who are disciplinary problems.

In 2006, former Governor George



Jeffrion Aubry

Pataki vetoed a bill similar to the legislation agreed to this week. Among his objections was an estimate that the bill would cost as much as \$500 million to build new facilities and for additional prison system operating costs.

But Mr. Aubry said those estimates were based on building new facilities and

not on the much lower cost of converting space in existing prisons. Mr. Aubry said this year's legislation would be phased in over four years, allowing the Department of Correctional Services and the Office of Mental Health time to make the necessary renovations in prisons and staffing changes to screen and treat mentally ill inmates.

The legislation will strengthen gains made in the *Disability Advocates* case, according to Mr. Aubry.

"You needed to do more than the agreements that were reached between plaintiffs and the state," he said.

Mr. Gangi said the legislation is a "very positive step" in the direction of giving mentally ill inmates humane treatment.

"Essentially, what we were seeking through the SHU bill was the banning of the confinement of mentally ill people through the SHU as a matter of policy," he said. "The [Disability Advocates] consent decree did not achieve that."

The legislation does not apply to local jails. Jack Beck, director of the prison visiting project at the Correctional Association, said the focus has been on state prisons because the stays in SHUs are longer there than in county and city jails. He added that most studies done on the effects of solitary confinement have been in state prisons. Further, he said that many counties do not have the resources to dedicate special residential/health units to the mentally ill.

— Joel Stashenko can be reached at jstashenko@alm.com.