ABUSE OF THE HUMAN RIGHTS OF PRISONERS IN THE UNITED STATES: SOLITARY CONFINEMENT

The American Civil Liberties Union (ACLU) urges the Human Rights Council to address the widespread violations of the human rights of prisoners in the United States associated with solitary confinement and call for the adoption of appropriate measures to protect their human rights. The ACLU calls on the Council to urge the United States to take concrete and appropriate measures to end the egregious violations stemming from solitary confinement of prisoners:

Background on the Use of Solitary Confinement

Over the last twenty years, long-term solitary confinement has become an integral part of correctional practice in the United States. Often called "supermax," "administrative segregation," "SHU (Secured Housing Unit)," "SMU (Special Management Unit)," or simply "the hole," this practice consists of locking a prisoner alone in a cell for 23 hours or more a day, under conditions of extreme social isolation, enforced idleness, and deprivation of virtually all meaningful environmental stimulation.[i]

Prisons in the United States have always had solitary confinement cells where prisoners were sent for violating prison rules. However, the use of solitary confinement as a long-term management strategy rather than short-term punishment for misconduct is a relatively recent development. Moreover, technological advances, such as the development of intercoms and video surveillance cameras, have made possible a level of social isolation that was simply unthinkable in earlier times.

By one count, more than thirty states, as well as the Federal Bureau of Prisons, were operating a supermax facility or unit by 1999.[ii] Estimates vary as to how many prisoners are held in solitary confinement in the United States, but the most commonly accepted figure is a minimum of 20,000 people.[iii]

Prisoners are typically placed in solitary confinement for indefinite periods, and may remain there for years and in some cases decades. A recent investigation of Tamms Correctional Center, a supermax prison in Illinois, revealed that 54 prisoners had been in continuous solitary confinement for more than ten years.[iv] There are numerous examples of even longer periods of solitary confinement.[v]

A federal court described conditions in Wisconsin's supermax prison as follows:

> Inmates on Level One at the State of Wisconsin's Supermax Correctional Institution in Boscobel, Wisconsin spend all but four hours a week confined to a cell. The 'boxcar' style door on the cell is solid except for a shutter and a trap door that opens into the dead space of a vestibule through which a guard may transfer items to the

> inmate without interacting with him. The cells are illuminated 24 hours a day. Inmates receive no outdoor exercise. Their personal possessions are severely restricted: one religious text, one box of legal materials and 25 personal letters. They are permitted no clocks, radios, watches, cassette players or televisions. The temperature fluctuates wildly, reaching extremely high and low temperatures depending on the season. A video camera rather than a human eye monitors the inmate's movements. Visits other than with lawyers are conducted through video screens.[vi]

Harmful Effects of Solitary Confinement

There is a broad consensus among mental health experts that long-term solitary confinement is psychologically harmful.[vii] Indeed, the damaging effects of solitary confinement, even on persons with no prior history of mental illness, have long been well known. Over a century ago, the United States Supreme Court described the effect of solitary confinement as practiced in the nation's early days:

> 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 generally not reformed, and in most cases did not recover sufficient mental activity to be of any subsequent service to the community.[viii]

In 2002, a California prison psychiatrist told Human Rights Watch: "It's a standard psychiatric concept, if you put people in isolation, they will go insane. . . . Most people in isolation will fall apart."[ix]

Prisoners exhibit a variety of negative physiological and psychological reactions to solitary confinement, including: (1) hypersensitivity to external stimuli;[x] (2) perceptual distortions and hallucinations;[xi] (3) increased anxiety and nervousness;[xii] (4) revenge fantasies, rage, and irrational anger;[xiii] (5) fears of persecution;[xiv] (6) lack of impulse control;[xv] (7) claustrophobia;[xvi] (8) severe and chronic depression;[xvii] (9) appetite loss and weight loss;[xviii] (10) heart palpitations;[xix] (11) withdrawal;[xx] (12) blunting of affect and apathy;[xxi] (13) talking to oneself;[xxii] (14) headaches;[xxiii] (15) problems sleeping;[xxiv] (16) confusing thought processes;[xxv] (17) nightmares;[xxvi] (18) dizziness;[xxvii] (19) self-mutilation;[xxviii] and (20) lower levels of brain function, including a decline in EEG activity.[xxix] EEG changes were observed after only seven days of solitary confinement.[xxx] In a 2005 submission to the United States Supreme Court, a group of psychologists and psychiatrists concluded that "no study of the effects of solitary or supermax-like confinement that lasted longer than 60 days failed to find evidence of negative psychological effects."[xxxi]

Solitary Confinement and the Mentally Ill

Prisoners with mental illness are significantly overrepresented in supermax prisons and similar solitary confinement facilities. Most experts estimate that approximately 10 to 20 percent of all prisoners in United States prisons suffer from a mental illness.[xxxii] In supermax facilities, however, the number is far higher. For example, in Indiana's supermax -- the Secured Housing Unit (SHU) at the Wabash Valley Correctional Facility -- prison officials stated that "well over half" of the prisoners were mentally ill.[xxxiii]

Once subjected to the extreme social and sensory deprivations of solitary confinement, many mentally ill prisoners deteriorate dramatically. Some engage in extreme acts of self-

mutilation and even suicide. In the Wabash Valley SHU, a 21 year old mentally ill prisoner set himself on fire in his cell; he died from his burns. Another prisoner in the same unit choked himself to death with a washcloth.[xxxiv] It is not unusual to find mentally ill prisoners in solitary confinement who swallow razors and other objects, smash their heads into the wall, compulsively cut their flesh, try to hang themselves, and otherwise attempt to harm or kill themselves.[xxxv]

A federal appellate court described the experience of a prisoner with schizophrenia in Wisconsin's supermax prison:

> The constant illumination of the cells disturbs psychotics. And without audiotapes or a radio or any other source of sound Scarver could not still the voices in his head. He attempted suicide twice, once by taking an overdose of his antipsychotic pills and the other time by swallowing a large number of Tylenol tablets. On several occasions he banged his head against the cell wall for protracted periods, telling a prison psychologist that he wanted to break his head open so that the voices could escape. He also cut his head with a razor in an effort to cut out whoever or whatever was talking and moving around inside his head. On another occasion he cut his wrists.[xxxvi]

Solitary Confinement and Physical Abuse

Prisoners in solitary confinement are more likely to be subject to the use of excessive force and other forms of physical abuse.[xxxvii] Correctional officers often misuse physical restraints, chemical agents, and stun guns, particularly when extracting prisoners from their cells.[xxxviii] The fact that the solitary confinement cells are isolated makes it more difficult to detect abuse.[xxxix] Additionally, the idea that "the worst of the worst" are placed in solitary confinement makes it more likely that administrators will be apathetic or turn a blind eye to abuses.[xl]

Mentally ill prisoners are at particular risk of abuse. These prisoners may have difficulty controlling their behavior and obeying staff instructions, and the symptoms of their illness may be misinterpreted by untrained staff as willful defiance.

We therefore make the following recommendations:

The Human Rights Council should call on the United States to adopt policies and practices for the use of solitary confinement consistent with the following principles:

- Solitary confinement should be used only in very exceptional cases, for as short a time as possible and only as a last resort.
- Segregation of prisoners for their own protection should take place in the least restrictive setting possible.
- Decrease extreme isolation by allowing for in-cell programming, supervised out-of-cell exercise, face-to-face interaction with staff, and access to television, radio, telephone calls, correspondence, and reading material.
- Decrease sensory deprivation by limiting the use of auditory isolation, deprivation of light and reasonable darkness, and punitive diets.

- Allow prisoners to gradually earn more privileges and be subjected to fewer restrictions, even if they continue to require physical separation from others.
- Prohibit solitary confinement of prisoners with mental illness, children under age 18, and death row and life-sentenced prisoners by virtue of their sentence.
- Prohibit the intentional use of solitary confinement to apply psychological pressure to prisoners.
- Carefully monitor prisoners in solitary confinement for signs of mental illness and promptly remove them from solitary confinement if such signs appear.
- Invite United Nations special rapporteur on torture to conduct a fact finding mission and facilitate access to prisons and inmates victims of prolonged solitary confinement.

---

[i] *See, e.g.*, Eric Lanes, *The Association of Administrative Segregation Placement on Other Risk Factors with the Self-Injury-Free Time of Male Prisoners*, 48 JOURNAL OF OFFENDER REHABILITATION 529, 532 (2009); Leena Kurki and Norval Morris, *The Purposes, Practices, and Problems of Supermax Prisons*, 28 CRIME AND JUSTICE 385, 388 (2001).

[ii] Chase Riveland, U.S. Dept. of Justice, *Supermax Prisons: Overview and General Considerations* 5 (1999).

[iii]Alexandra Naday, Joshua D. Freilich and Jeff Mellow, *The Elusive Data on Supermax Confinement,* 88 THE PRISON JOURNAL 69 (2008).

[iv] George Pawlaczyk and Beth Hunsdorfer, *Trapped in Tamms: In Illinois' only supermax facility, inmates are in cells 23 hours a day*, BELLEVILLE NEWS-DEMOCRAT, August 2, 2009.

[v] *See, e.g., Wilkerson v. Stalder*, 639 F.Supp.2d 654 (M.D. La. 2007) (three prisoners held in solitary confinement for periods ranging from 28 to 35 years); *Silverstein v. Federal Bureau Of Prisons,* 704 F.Supp.2d 1077 (D. Colo. 2010) (twenty-seven years); *Georgacarakos v. Wiley*, No. 07-cv-01712-MSK-MEH, 2010 WL 1291833 (D. Colo. Mar. 30, 2010) (fourteen years).

[vi] *Jones' El v. Berge*, 164 F.Supp.2d 1096, 1098 (W.D. Wis. 2001).

[vii] *See, e.g.*, Stuart Grassian, *Psychopathological Effects of Solitary Confinement*, 140 AMERICAN JOURNAL OF PSYCHIATRY 1450 (1983); R. Korn, *The Effects of Confinement in the High Security Unit at Lexington*, 15 SOCIAL JUSTICE 8 (1988); S.L. Brodsky and F.R. Scogin, *Inmates in Protective Custody: First Data on Emotional Effects*, 1 FORENSIC REPORTS 267 (1988); Craig Haney, *Mental Health Issues in Long-Term Solitary and "Supermax" Confinement*, 49 CRIME & DELINQUENCY 124 (2003); H. Miller and G. Young, *Prison Segregation: Administrative Detention Remedy or Mental Health Problem?*, 7 CRIMINAL BEHAVIOUR AND MENTAL HEALTH 85 (1997); H. Toch, *Mosaic of Despair: Human Breakdown in Prison*, Washington DC: American Psychological Association (1992).

[viii] *In re Medley*, 134 U.S. 160, 168 (1890).

[ix] HUMAN RIGHTS WATCH, ILL-EQUIPPED: U.S. PRISONS AND OFFENDERS WITH MENTAL ILLNESS 149 n. 513 (New York: Human Rights Watch, 2003).

[x] Stuart Grassian, *Psychopathological Effects of Solitary Confinement*, 140 AMERICAN JOURNAL OF PSYCHIATRY 1450, 1452 (1983).

[xi] *Id.*; R. Korn, *The Effects of Confinement in the High Security Unit at Lexington*, 15 SOCIAL JUSTICE 8 (1988); S.L. Brodsky and F.R. Scogin, *Inmates in Protective Custody: First Data on Emotional Effects*, 1 FORENSIC REPORTS 267 (1988); Craig Haney, *Mental Health Issues in Long-Term Solitary and "Supermax" Confinement*, 49 CRIME & DELINQUENCY 124, 130 (2003).

[xii] *See* Grassian, *supra* note 10, at 1452; Korn, *supra* note 11, at 8; Brodsky and Scogin, *supra* note 11, at 267; Haney, *supra* note 11, at 130; Holly A. Miller, *Reexamining Psychological Distress in the Current Conditions of Segregation*, 1 JOURNAL OF CORRECTIONAL HEALTHCARE 39, 48 (1994).

[xiii] *See* Grassian, *supra* note 10, at 1450, 1453; Korn, *supra* note 11, at 8; Brodsky and Scogin, supra note 11, at 267; Haney, *supra* note 11, at 124, 130; Miller and Young, *supra* note 7, at 85; H. Toch, *Mosaic of Despair: Human Breakdown in Prison*, Washington DC: American Psychological Association (1992).

[xiv] *See* Grassian, *supra* note 10, at 1450, 1453.

[xv] *See* Grassian, *supra* note 10, at 1450, 1453; Miller and Young, *supra* note 7, at 85; Toch, *supra* note 13.

[xvi] Korn, *supra* note 11, at 8.

[xvii] Korn, *supra* note 11, at 8; Haney, *supra* note 11, at 124, 131.

[xviii] Korn, *supra* note 11, at 8.

[xix] Korn, *supra* note 11, at 8; Haney, *supra* note 11, at 124, 133.
[xx] Korn, *supra* note 11, at 8; Miller and Young, *supra* note 7, at 85.
[xxi] Korn, *supra* note 11, at 8; Miller and Young, *supra* note 7, at 85.
[xxii] Brodsky and Scogin, *supra* note 11, at 267.
[xxiii] Brodsky and Scogin, *supra* note 11, at 267; Haney, *supra* note 11, at 124, 133.
[xxiv] Brodsky and Scogin, *supra* note 11, at 267; Haney, *supra* note 11, at 124, 133.
[xxv] Brodsky and Scogin, *supra* note 11, at 267; Haney, *supra* note 11, at 124, 137.
[xxvi] Haney, *supra* note 11, at 124, 133.
[xxvii] *Id.*
[xxviii] *See* Grassian, *supra* note 10, at 1450, 1453; Eric Lanes, *The Association of Administrative Segregation Placement and Other Risk Factors with the Self-Injury-Free Time of Male Prisoners*, 48 JOURNAL OF OFFENDER REHABILITATION 529, 539-40 (2009).
[xxix] Paul Gendreau, N.L. Freedman, and G.J.S. Wilde, *Changes in EEG Alpha Frequency and Evoked Response Latency During Solitary Confinement*, 79 JOURNAL OF ABNORMAL PSYCHOLOGY 54, 57-58 (1972).
[xxx] *Id.*
[xxxi] *Wilkinson v. Austin*, No. 04-495, Brief of Professors and Practitioners of Psychology and Psychiatry as Amicus Curiae in Support of Respondent, 2005 WL 539137, at *4 (March 3, 2005).
[xxxii] KUPERS, PRISON MADNESS: THE MENTAL HEALTH CRISIS BEHIND BARS AND WHAT WE MUST DO ABOUT IT 11 (Jossey-Bass 1999).
[xxxiii] Howard Greninger, *Suit targets Carlisle Prison*, TERRE HAUTE TRIBUNE-STAR, Feb. 4, 2005.
[xxxiv] Karin Grunden, *Man found hanging in cell at Wabash Valley Correctional Facility*, TERRE HAUTE TRIBUNE-STAR, Oct. 1, 2003.
[xxxv] *See generally* Metzner and Fellner, *Solitary Confinement and Mental Illness in U.S. Prisons: A Challenge for Medical Ethics*, J. Am. Acad. Psychiatry Law 38:1:104-108 (2010).
[xxxvi] *Scarver v. Litscher*, 434 F.3d 972, 974 -75 (7th Cir. 2006). The court ruled that prison officials were not liable for the harm Scarver suffered, because they had not acted with a sufficiently culpable state of mind.
[xxxvii] Leena Kurki and Norval Morris, *The Purposes, Practices, and Problems of Supermax Prisons*, 28 CRIME AND JUSTICE 385, 409 (2001).
[xxxviii] CAROLINE ISAACS AND MATTHEW LOWEN, BURIED ALIVE: SOLITARY CONFINEMENT IN ARIZONA'S PRISONS AND JAILS 14 (2007).
[xxxix] *Id*. at 16.
[xl] *Id*.; *see also* Maureen L. O'Keefe, *Administrative Segregation From Within: A Corrections Perspective*, 88 THE PRISON JOURNAL 123, 126 (2008).