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## Human Rights Council

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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Written statement\* submitted by the American Civil Liberties Union, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 February 2012]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **Abuse of the human rights of prisoners in the United States: Solitary confinement**

The American Civil Liberties Union (ACLU) welcomes the recommendations made by the United Nations Special Rapporteur on Torture in his study on solitary confinement (A/66/268) and urges the Human Rights Council to adopt his conclusions and recommendations and to address the widespread violation of the human rights of prisoners held in solitary confinement in the United States. The ACLU calls on the U.S. to take concrete and appropriate measures to end the egregious violations that stem from this practice and extend an official invitation to the Special Rapporteur on Torture to visit the country as soon as practically possible.

### **Background on the Use of Solitary Confinement**

In a groundbreaking global study on solitary confinement, published last year at the U.N. General Assembly and scheduled to be presented to 19th session of the Human Rights Council, the Special Rapporteur on Torture called on all countries to ban the practice, except in very exceptional circumstances, as a last resort, and for as short a time as possible. The Special Rapporteur concluded that solitary confinement is a harsh measure that may cause serious psychological and physiological adverse effects. He found that solitary confinement can amount to cruel, inhuman or degrading treatment or punishment and even torture. He recommended both the prohibition of solitary confinement and the implementation of alternative disciplinary sanctions. He also called for increased safeguards from abusive and prolonged solitary confinement, the universal prohibition of solitary confinement exceeding 15 days, and the discontinuance of solitary confinement for juveniles and mentally disabled persons.<sup>1</sup>

In the United States, long-term solitary confinement is an integral part of correctional practice. Often called “supermax,” “administrative segregation,” “SHU (Secured Housing Unit),” or “SMU (Special Management Unit),” this practice consists of locking a prisoner alone in a cell for 22 hours or more a day, under conditions of extreme social isolation, enforced idleness, and deprivation of virtually all meaningful environmental stimulation.<sup>2</sup> Technological advances, such as the development of intercoms and video surveillance cameras, allow U.S. prisons to inflict a level of social isolation that was simply unthinkable in earlier times.

Forty-four states and the federal government have supermax prisons, housing at least 25,000 people nationwide.<sup>3</sup> But this figure does not reflect the total number of prisoners held in solitary confinement in the United States on any given day. Using data from a census of state and federal prisoners conducted by the federal Bureau of Justice Statistics, researchers estimate that over 80,000 prisoners are held in “restricted housing,” including

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<sup>1</sup> Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, delivered to the General Assembly, U.N. Doc. A/66/268 (Aug. 5, 2011).

<sup>2</sup> 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).

<sup>3</sup> Daniel P. Mears, *Urban Inst., Evaluating the Effectiveness of Supermax Prisons* 4 (2006).

prisoners held in administrative segregation, disciplinary segregation and protective custody – all forms of housing involving substantial social isolation.<sup>4</sup>

Prisoners are typically placed in solitary confinement for indefinite periods, and may remain there for month, years, and even 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.<sup>5</sup> There are numerous examples of even longer periods of solitary confinement<sup>6</sup>

### **Harmful effects of solitary confinement**

There is a broad consensus among mental health experts that long-term solitary confinement is psychologically harmful.<sup>7</sup> Indeed, the damaging effects of solitary confinement, even on persons with no prior history of mental illness, are well known. 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.”<sup>8</sup>

Prisoners exhibit a variety of negative physiological and psychological reactions to solitary confinement, including: (1) hypersensitivity to external stimuli;<sup>9</sup> (2) perceptual distortions and hallucinations;<sup>10</sup> (3) increased anxiety and nervousness;<sup>11</sup> (4) revenge fantasies, rage, and irrational anger;<sup>12</sup> (5) fears of persecution;<sup>13</sup> (6) lack of impulse control;<sup>14</sup> (7)

<sup>4</sup> Angela Browne, Alissa Cambier, Suzanne Agha, *Prisons Within Prisons: The Use of Segregation in the United States*, 24 Fed’l Sentencing Reporter 46 (2011).

<sup>5</sup> 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.

<sup>6</sup> 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).

<sup>7</sup> 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).

<sup>8</sup> Human Rights Watch, *Ill-Equipped: U.S. Prisons and Offenders with Mental Illness* 149 n. 513 (New York: Human Rights Watch, 2003).

<sup>9</sup> See Grassian, *supra* note vii.

<sup>10</sup> *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).

<sup>11</sup> See Grassian, *supra* note vii, at 1452; Korn, *supra* note vii, at 8; Brodsky and Scogin, *supra* note x, at 267; Haney, *supra* note vii, at 130; Holly A. Miller, *Reexamining Psychological Distress in the Current Conditions of Segregation*, 1 *Journal of Correctional Healthcare* 39, 48 (1994).

<sup>12</sup> See Grassian, *supra* note vii, at 1450, 1453; Korn, *supra* note vii, at 8; Brodsky and Scogin, *supra* note x, at 267; Haney, *supra* note vii, at 124, 130; Miller and Young, *supra* note vii, at 85; H. Toch, *Mosaic of Despair: Human Breakdown in Prison*, Washington DC: American Psychological Association (1992).

<sup>13</sup> See Grassian, *supra* note vii, at 1450, 1453.

claustrophobia;<sup>15</sup> (8) severe and chronic depression;<sup>16</sup> (9) appetite loss and weight loss;<sup>17</sup> (10) heart palpitations;<sup>18</sup> (11) withdrawal;<sup>19</sup> (12) blunting of affect and apathy;<sup>20</sup> (13) talking to oneself;<sup>21</sup> (14) headaches;<sup>22</sup> (15) problems sleeping;<sup>23</sup> (16) confusing thought processes;<sup>24</sup> (17) nightmares;<sup>25</sup> (18) dizziness;<sup>26</sup> (19) self-mutilation;<sup>27</sup> and (20) lower levels of brain function, including a decline in EEG activity.<sup>28</sup> EEG changes were observed after only seven days of solitary confinement.<sup>29</sup> 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.”<sup>30</sup>

### **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.<sup>31</sup> 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.<sup>32</sup>

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.<sup>33</sup> It is not unusual to find mentally ill prisoners in solitary confinement who swallow razors and other objects, smash their heads into the wall,

<sup>14</sup> See Grassian, supra note vii, at 1450, 1453; Miller and Young, supra note vii, at 85; Toch, supra note xii.

<sup>15</sup> Korn, supra note vii, at 8.

<sup>16</sup> Korn, supra note vii, at 8; Haney, supra note vii, at 124, 131.

<sup>17</sup> Korn, supra note vii, at 8.

<sup>18</sup> Korn, supra note vii, at 8; Haney, supra note vii, at 124, 133.

<sup>19</sup> Korn, supra note vii, at 8; Miller and Young, supra note vii, at 85.

<sup>20</sup> Korn, supra note vii, at 8; Miller and Young, supra note vii at 85.

<sup>21</sup> Brodsky and Scogin, supra note x, at 267.

<sup>22</sup> Brodsky and Scogin, supra note x, at 267; Haney, supra note vii, at 124, 133.

<sup>23</sup> Brodsky and Scogin, supra note x, at 267; Haney, supra note vii, at 124, 133.

<sup>24</sup> Brodsky and Scogin, supra note x, at 267; Haney, supra note vii, at 124, 137.

<sup>25</sup> Haney, supra note vii, at 124, 133.

<sup>26</sup> Id.

<sup>27</sup> See Grassian, supra note vii, 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).

<sup>28</sup> 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).

<sup>29</sup> Id.

<sup>30</sup> *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).

<sup>31</sup> Kupers, *Prison Madness: The Mental Health Crisis Behind Bars and What We Must Do About It* 11 (Jossey-Bass 1999).

<sup>32</sup> Howard Greninger, Suit targets Carlisle Prison, *Terre Haute Tribune-Star*, Feb. 4, 2005.

<sup>33</sup> Karin Grunden, Man found hanging in cell at Wabash Valley Correctional Facility, *Terre Haute Tribune-Star*, Oct. 1, 2003.

compulsively cut their flesh, try to hang themselves, and otherwise attempt to harm or kill themselves.<sup>34</sup>

### **Solitary confinement of youth**

Youth in both the juvenile justice system and the adult correctional system are routinely subjected to solitary confinement. In adult prisons and jails, youth are often placed in “protective custody” by corrections officials for safety reasons. Unfortunately, “protective custody” is almost always synonymous with solitary confinement. Despite the prevalence of youth in adult facilities in the United States, most adult correctional systems offer few if any alternatives to solitary confinement as a means of protecting youth.<sup>35</sup>

In juvenile facilities, solitary confinement is frequently used as a sanction for disciplinary infractions. These sanctions can last for hours, days, weeks or longer and often open the door to abusive isolation practices.<sup>36</sup> While the use of solitary confinement in youth facilities is generally of much shorter duration than in adult facilities, the greater impact of isolation on the psyche of children and its negative effect on youth development—and ultimately, rehabilitation—raise serious human rights questions.

Experts agree that juveniles are at particular risk of suffering adverse physiological and psychological consequences from isolation. Rates of mental illness among juveniles in both adult and juvenile facilities are much higher than in the general youth population.<sup>37</sup> Moreover, youth placed in solitary confinement face a substantially increased risk of suicide. A seminal juvenile justice study found that 62% of juveniles who committed suicide while incarcerated had a history of isolation before their death, and 50% were on isolation status at the time of their death.<sup>38</sup>

### **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.<sup>39</sup> Correctional officers often misuse physical restraints, chemical agents, and stun guns, particularly when extracting prisoners from their cells.<sup>40</sup> The fact that the solitary confinement cells are isolated makes it more difficult to detect

<sup>34</sup> See generally Metzner and Fellner, *Solitary Confinement and Mental Illness in U.S. Prisons: A Challenge for Medical Ethics*, 38 *J. Am. Acad. Psychiatry Law* 104, 108 (2010).

<sup>35</sup> Wash. Coal. for the Just Treatment of Youth, *A Reexamination of Youth Involvement in the Adult Criminal Justice System in Washington: Implications of New Findings about Juvenile Recidivism and Adolescent Brain Development* 8 (2009), available at [http://www.columbialegal.org/files/JLWOP\\_cls.pdf](http://www.columbialegal.org/files/JLWOP_cls.pdf).

<sup>36</sup> Lindsay M. Hayes, *Nat'l Ctr. on Insts. and Alts., Juvenile Suicide in Confinement: A National Survey* 40 (2004).

<sup>37</sup> Hayes, *supra* note xxxvi, at 3-4. Similarly, a recent study in Mississippi found that at least 66% of confined youth met the DSM-IV diagnostic criteria for a mental disorder, and that over half of the youth met the criteria for multiple disorders). *Id.* at 3 (citing Angela A. Robertson and Jonelle Husain, *Prevalence of Mental illness and Substance Abuse Disorders Among Incarcerated Juvenile Offenders*, 35(1) *Child Psychiatry & Human Dev.* 55 (2001)).

<sup>38</sup> Hayes, *supra* note xxxvi, at 42.

<sup>39</sup> Leena Kurki and Norval Morris, *The Purposes, Practices, and Problems of Supermax Prisons*, 28 *Crime and Justice* 385, 409 (2001).

<sup>40</sup> Caroline Isaacs and Matthew Lowen, *Buried Alive: Solitary Confinement in Arizona's Prisons and Jails* 14 (2007).

abuse.<sup>41</sup> 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.<sup>42</sup>

**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 solely 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 U.N. Special Rapporteur on Torture to conduct a fact-finding mission, and facilitate unimpeded access to prisons and prisoners held in prolonged solitary confinement.

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<sup>41</sup> Id. at 16.

<sup>42</sup> Id.; see also Maureen L. O’Keefe, Administrative Segregation From Within: A Corrections Perspective, 88 *The Prison Journal* 123, 126 (2008).