



**WRITTEN STATEMENT OF
THE AMERICAN CIVIL LIBERTIES UNION**

**Hearing on the
Proposed Closure of Tamms Correctional Center**

**Submitted to the Illinois Commission on Government Forecasting
and Accountability**

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The American Civil Liberties Union (ACLU), founded in 1920, is a nationwide, non-profit, nonpartisan organization of more than 500,000 members dedicated to the principles of liberty and equality embodied in the Constitution and this nation's civil rights laws. Since 1972 the ACLU National Prison Project has worked to ensure that our nation's prisons comply with the Constitution, domestic law, and international human rights principles.

The American Civil Liberties Union of Illinois is a non-partisan, not-for-profit organization committed to protect and to expand the civil liberties and civil rights of persons in Illinois. The organization has engaged in this constitutionally protected pursuit through public education and advocacy before courts, legislatures, and administrative agencies. The organization has more than 20,000 members and supporters dedicated to protecting and expanding the civil rights and civil liberties guaranteed by the Constitutions and civil rights laws of the United States and the State of Illinois.

The ACLU respectfully urges the Commission to approve the permanent closure of Tamms Correctional Center.

The damaging effects of solitary confinement are well known and undisputed.

Tamms is a supermax facility in which prisoners – many of them mentally ill – are held in solitary confinement, sometimes for years on end.¹ A 2009 study by the *Belleville News-*

¹ “Solitary confinement” is defined as “the physical and social isolation of individuals who are confined to their cells for 22 to 24 hours a day.” Interim Report of the Special Rapporteur of the Human Rights Council on Torture and

Democrat found that 54 Tamms prisoners had been in continuous solitary confinement for more than ten years.²

The shattering effects of solitary confinement on the human psyche have long been well known. In 1842, Charles Dickens reported on the use of solitary confinement in American prisons:

I believe that very few men are capable of estimating the immense amount of torture and agony which this dreadful punishment, prolonged for years, inflicts upon the sufferers...there is a depth of terrible endurance in it which none but the sufferers themselves can fathom, and which no man has a right to inflict upon his fellow-creature. I hold this slow and daily tampering with the mysteries of the brain, to be immeasurably worse than any torture of the body[.]³

In 1890, the United States Supreme Court described the devastating effects 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 not generally reformed, and in most cases did not recover sufficient mental activity to be of any subsequent service to the community.⁴

Half a century later, the Court referred to solitary confinement as one of the techniques of "physical and mental torture" that have been used by governments to coerce confessions.⁵

More recently, the Chicago-based U.S. Court of Appeals for the Seventh Circuit observed that "the record shows, what anyway seems pretty obvious, that isolating a human being from other human beings year after year or even month after month can cause substantial psychological damage, even if the isolation is not total."⁶ The court recognized that "there is plenty of medical and psychological literature concerning the ill effects of solitary confinement (of which segregation is a variant)[.]"⁷

In *Jones 'El v. Berge*, a Wisconsin federal court found that solitary confinement is:

known to cause severe psychiatric morbidity, disability, suffering and mortality. ... The extremely isolating conditions in supermaximum confinement cause [Segregated Housing Unit] Syndrome in relatively healthy prisoners who have histories of serious mental illness, as well as prisoners who have never suffered a breakdown in the past but are prone to break down when the stress and trauma become exceptionally severe. Many

Other Cruel, Inhuman or Degrading Treatment or Punishment, delivered to the General Assembly, U.N. Doc. A/66/268 (Aug. 5, 2011), at 9.

² "Trapped in Tamms: In Illinois' only supermax facility, inmates are in cells 23 hours a day," *Belleville News-Democrat*, August 2, 2009, available at <http://www.bnd.com/2009/08/02/865377/trapped-in-tamms-in-illinois-only.html>.

³ Charles Dickens, AMERICAN NOTES 146 (Fromm Int'l 1985) (1842).

⁴ *In re Medley*, 134 U.S. 160, 168 (1890).

⁵ *Chambers v. Florida*, 309 U.S. 227, 237-38 (1940).

⁶ *Davenport v. DeRobertis*, 844 F.2d 1310, 1313 (7th Cir. 1988).

⁷ *Id.* at 1316.

prisoners are not capable of maintaining their sanity in such an extreme and stressful environment; a high number attempt suicide.⁸

And in 2010, an Illinois federal court found that “Tamms imposes drastic limitations on human contact, so much so as to inflict lasting psychological and emotional harm on inmates confined there for long periods.”⁹

These judicial findings are supported by a large body of psychiatric literature. In a 2005 submission to the United States Supreme Court, a group of psychologists and psychiatrists reviewed this literature and 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.”¹⁰ They continued: “The overall consistency of these findings - the same or similar conclusions reached by different researchers examining different facilities, in different parts of the world, in different decades, using different research methods - is striking. The well-documented psychological risks created by long-term prison isolation are matters of grave concern[.]”¹¹

Other states have reduced solitary confinement and closed supermax prisons with no adverse effect on prison or public safety.

A number of states have dramatically reduced their use of solitary confinement, preserving prison and public safety and saving millions of dollars in the process. Mississippi reduced the population of one supermax institution from 1000 to 150 and eventually closed the unit entirely.¹² Mississippi prison officials estimate that diverting prisoners from solitary confinement under the state’s new model saves about \$8 million annually.¹³ At the same time, changes in the management of the solitary confinement population reduced violence levels by 70%.¹⁴

In March 2011, the Maine Department of Corrections recommended tighter controls on the use of special management units (SMUs). Due to subsequent reforms, the SMU population was cut by over fifty percent; expanded access to programming and social stimulation for prisoners was implemented; and personal approval of the Commissioner of Corrections is now required to place a prisoner in the SMU for longer than 72 hours.¹⁵

The Colorado Department of Corrections (CDOC) recently identified solitary confinement reform as a management priority and made a formal request to the National

⁸ *Jones ‘El v. Berge*, 164 F. Supp. 2d 1096, 1101-02 (W.D. Wis. 2001).

⁹ *Westefer v. Snyder*, 725 F.Supp.2d 735, 769 (S.D. Ill. 2010).

¹⁰ *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 (March 3, 2005), at *4.

¹¹ *Id.* at *22.

¹² Terry A. Kupers, et al., *Beyond Supermax Administrative Segregation: Mississippi’s Experience Rethinking Prison Classification and Creating Alternative Mental Health Programs*, 36 CRIM. JUST. & BEHAV. 1037, 1041 (2009); John Buntin, *Exodus: How America’s Reddest State – And Its Most Notorious Prison – Became a Model of Corrections Reform*, 23 GOVERNING 20, 27 (2010).

¹³ *Presley v. Epps*, No. 4:05-CV-00148-JAD (N.D. Miss. Aug. 2, 2010), transcript of Proceedings at 8.

¹⁴ Kupers et al., *supra* note 12, at 1043.

¹⁵ Lance Tapley, *Reform Comes to the Supermax*, PORTLAND PHOENIX, May 25, 2011, available at <http://portland.the phoenix.com/news/121171-reform-comes-to-the-supermax/>.

Institute of Corrections, U.S. Department of Justice, for an external review and analysis of its administrative segregation operations. As a result of the reforms implemented through this process in the last few months, CDOC has reduced its administrative segregation population by 36.9%.¹⁶ After taking these steps to reduce the use of administrative segregation, the CDOC recently announced the closure of a 316-bed supermax facility, which is projected to save the state \$4.5 million in Fiscal Year 2012-13 and \$13.6 million in Fiscal Year 2013-14.¹⁷

None of these states have experienced any adverse effect on prison or public safety as a result of reducing their use of solitary confinement. This is not surprising, as evidence shows that prisoners released from solitary confinement have higher recidivism rates than comparable prisoners released from general population.¹⁸

Solitary confinement is inconsistent with the U.S. Constitution and international human rights principles.

Because of the profoundly damaging effects of solitary confinement, particularly on prisoners with mental illness, a number of federal courts have ruled that conditions in supermax prisons like Tamms cause such extreme suffering that they violate the Constitution's prohibition on cruel and unusual punishments:

As the pain and suffering caused by a cat-o'-nine-tails lashing an inmate's back are cruel and unusual punishment by today's standards of humanity and decency, the pain and suffering caused by extreme levels of psychological deprivation are equally, if not more, cruel and unusual. The wounds and resulting scars, while less tangible, are no less painful and permanent when they are inflicted on the human psyche.

Before the court are levels of psychological deprivation that violate the United States Constitution's prohibition against cruel and unusual punishment. It has been shown that defendants are deliberately indifferent to a systemic pattern of extreme social isolation and reduced environmental stimulation. These deprivations are the cause of cruel and unusual pain and suffering by inmates in administrative segregation[.]¹⁹

¹⁶ COLORADO DEPARTMENT OF CORRECTIONS, REPORT ON IMPLEMENTATION OF ADMINISTRATIVE SEGREGATION PLAN 1-2 (2012), available at <https://www.aclu.org/prisoners-rights/report-co-docs-implementation-administrative-segregation-plan>; see also Denise Maes, *Guest Column: Solitary Confinement Reform is Welcome Sign of Progress*, COLORADO SPRINGS GAZETTE, Jan. 27, 2012, available at www.gazette.com/common/printer/view.php?db=colgazette&id=132524.

¹⁷ News Release, Department of Corrections, *The Department of Corrections Announces the Closure of Colorado State Penitentiary II* (March 19, 2012), available at <http://www.doc.state.co.us/sites/default/files/Press%20release%20CSP%20II%20close%20%20Feb%201%202013.pdf>.

¹⁸ See, e.g., Lovell, David, L. Clark Johnson, and Kevin C. Cain, "Recidivism of Supermax Prisoners in Washington State," *Crime and Delinquency* 53 (October 2007): 633-656; MAUREEN L. O'KEEFE, CO. DEPT. OF CORRECTIONS, ANALYSIS OF COLORADO'S ADMINISTRATIVE SEGREGATION 25 (2005), available at <http://www.doc.state.co.us/sites/default/files/opa/AdSegReport.pdf>.

¹⁹ *Ruiz v. Johnson*, 37 F.Supp.2d 855, 914 -15 (S.D. Tex. 1999), *rev'd on other grounds*, 243 F.3d 941 (5th Cir. 2001), *adhered to on remand*, 154 F.Supp.2d 975 (S.D. Tex. 2001).

A federal court in California characterized housing prisoners with mental illness in a supermax unit as “the mental equivalent of putting an asthmatic in a place with little air to breathe:”

[S]ubjecting individuals to conditions that are “very likely” to render them psychotic or otherwise exacerbate a serious mental illness cannot be squared with evolving standards of humanity or decency, especially when certain aspects of those conditions appear to bear little relation to security concerns. A risk this grave – this shocking and indecent – simply has no place in civilized society.²⁰

And a federal court in Wisconsin ordered prison officials to remove prisoners with mental illness from the state’s Supermax Correctional Institution.²¹

Conditions at Tamms are also inconsistent with international human rights principles. In a global study on solitary confinement, presented last year to the United Nations General Assembly, the U.N. 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 can amount to cruel, inhuman or degrading treatment or punishment and in some cases even torture. He recommended a ban on solitary confinement exceeding 15 days, and the abolition of solitary confinement for juveniles and mentally disabled persons.²²

The U.N. Committee Against Torture, the official body established pursuant to the Convention Against Torture – a treaty ratified by the United States – has also recommended that the practice of long-term solitary confinement be abolished altogether.²³ When the Committee reviewed practices in the United States, it expressed grave concern about the extremely harsh regime imposed on prisoners in supermax prisons. The Committee specifically noted the prolonged isolation prisoners experience and the effect such treatment has on their mental health, and recommended that the United States “should review the regime imposed on [prisoners] in ‘supermaximum prisons,’ in particular the practice of prolonged isolation.”²⁴

Because it is inconsistent with international human rights norms, the use of supermax prisons like Tamms threatens the ability of the United States to secure the extradition of criminal suspects from other nations. The European Court of Human Rights has temporarily blocked the extradition of three terrorism suspects to the United States on the ground that if convicted, their eventual confinement in a U.S. supermax prison might violate the European Convention on Human Rights.²⁵

²⁰*Madrid v. Gomez*, 889 F. Supp. 1146, 1265, 1266 (N.D. Cal. 1995).

²¹*Jones’El v. Berge*, 164 F.Supp.2d 1096, 1125-26 (W.D. Wis. 2001).

²² 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).

²³ See, e.g., U.N. Comm. Against Torture, Consideration of Reports Submitted by States Parties Under Article 19 of the Convention: Denmark, ¶ 14, U.N. Doc. CAT/C/DNK/CO/5 (July 16, 2007).

²⁴ U.N. Comm. Against Torture, 36th Session, Consideration of Reports Submitted by States Parties Under Article 19 of the Convention: Conclusions and Recommendations of the Committee Against Torture: United States of America, U.N. Doc. CAT/C/USA/CO/2, at ¶ 36 (May 18, 2006).

²⁵ European Court of Human Rights, Press release issued by the Registrar, *Babar Ahmad and Others v. the United Kingdom* (application nos. 24027/07, 11949/08 and 36742/08), “Applications From Alleged International Terrorists Detained In The UK Pending Extradition to the USA Partly Admissible,” July 8, 2010, available at

Conclusion

Closing Tamms will advance human rights, preserve public safety, and save Illinois taxpayers tens of millions of dollars. The ACLU respectfully urges the Commission to take this long overdue step.