



American Friends Service Committee

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Statement of the American Friends Service Committee Before the United States Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights

Hearing on Reassessing Solitary Confinement II: The Human Rights, Fiscal and Public Safety Consequences

Tuesday, February 25, 2014

“My best attempt to describe prolonged isolation in a supermax prison is that it’s like Chinese water torture. A single drop may not harm you but the millions of little drops of stress, anxiety, uncertainty, depression, and sorrow build up until you can begin to feel your mind breaking. I wish I could explain it better. Maybe then people could understand and wouldn’t allow this hell to continue.” - Joe D., Tamms Correctional Center¹

The American Friends Service Committee (AFSC) is a nearly 100-year old faith-based organization grounded in the Quaker belief in the dignity and worth of every person. Early Quakers were leaders in the prison reform movements in England from the 17th century forward, as well as in the colonies. AFSC has carried forward this concern for both prisoners and victims of crime, seeking approaches that uphold each person’s humanity and restore wholeness to communities and relationships.

Our work to ensure a more humane and restorative criminal justice system continues today with efforts to ensure prisoners receive proper medical care, appropriate mental health services, and interaction with others, to document violations and abuses where they occur, and to provide public education about the crippling effects of long-term solitary confinement.

The AFSC greatly appreciates the opportunity to share our experiences and the testimonies we have collected from those directly impacted by solitary confinement. We thank the Subcommittee for continuing this important dialogue on isolation in prisons, jails and detention centers.

Our policy recommendations are rooted in our accompaniment of those held in isolation, those who have been released from segregation, and their family members. We are called by our faith to advocate for an end to prolonged solitary confinement, a practice that has permanent, severe effects on individuals, communities, and our nation’s moral integrity. The human rights abuses that accompany long-term solitary confinement are deeply troubling. Additionally, one often-neglected aspect of isolation is that certain groups in our communities are more affected by this practice than others, with individuals of color who comprise more than 60% of the U.S. prison population disproportionately impacted.² The AFSC believes that retributive policies such as

¹ Bonnie Kerness, “Torture in United States Prisons: Evidence of Human Rights Violations” at 11 (2012).

² The Sentencing Project, *Racial Disparity* (Feb. 21, 2014, 6:24 PM), <http://www.sentencingproject.org/template/page.cfm?id=122>

isolation should be replaced by rehabilitative models that are not only more humane but also better prepare individuals for successful return to their communities.

We call upon members of Congress to enact policies that honor the human rights of all prisoners and detainees, including:

- transparency in the use of solitary confinement;
- an end to placing vulnerable populations in solitary confinement, including juveniles and the mentally ill;
- prohibition on isolation lasting more than 15 days (long-term isolation);
- closing all Communications Management Units;
- independent oversight of isolation practices; and
- adoption of solitary confinement policies that are in compliance with applicable legal obligations.

Those placed into solitary confinement experience some of the most psychologically and physically challenging environments in the prison system. Individual cells measure a mere 8x10 feet. Cells are placed side to side and stacked on top of each other in tiers. Prisoners are restricted to their cells for 23 to 24 hours every day. Lights remain on for 24 hours a day, seven days a week, 365 days a year. The temperature in these cells is often extremely hot or frigidly cold. The cell features a large steel door with a small slot for food trays, preventing meaningful human interaction.³ Those who have been in isolation for extended periods of time often have difficulty reintegrating into the general population and the community. Robert Dellelo, a former solitary confinement prisoner, explained to the AFSC his reaction when first being temporarily released from his isolation cell to meet with his attorney:

*"I began to sweat, I couldn't concentrate. I did not know where to look. It is hard to believe, but I just wanted to get out of the room and go back to my cell. Later on I realized that I was confused because it had been months since I had seen a whole body... Seeing a whole body that moved unpredictably was very unsettling."*⁴

Despite widespread use, little information has been released nor have formal studies been conducted regarding the use of solitary confinement. In fact, the public knows very little about its application. The number of individuals being held in long-term isolation is not public information, though we know through the most recent Census that 81,622 people were in "restricted housing" (which does not include those isolated in county, juvenile and immigration facilities)⁵ and an estimated 30,000 people live in segregation.⁶ The length of time prisoners serve in isolation is unknown. No studies have been conducted about the financial costs of solitary. The impacts of isolation on the safety of prison staff are also unknown. This lack of knowledge hinders assessment of isolation and raises concerns about the conditions in which individuals are kept, far from the cleansing light of public scrutiny. The AFSC respectfully requests that Congress address this lack of transparency by requiring all prisons, jails, and detention centers to annually report to the Bureau of Justice Statistics comparative data on the use and implementation of isolation.

Vulnerable populations should not be placed in solitary confinement due to the unique circumstances rendering them more likely to suffer irreparable harm because of conditions

3 Bonnie Kerness & Jamie Bissonette Lewey, Race and the Politics of Isolation in U.S. Prisons; Atlantic Journal of Communication; Jan 30, 2014, at 28.

4 Id. at 22.

5 Id. at 29.

6 American Friends Service Committee, Solitary Confinement Facts, (Feb. 21, 2014, 6:02 PM), <https://afsc.org/resource/solitary-confinement-facts>

inherent in isolation. Juveniles, the elderly, prisoners experiencing mental illness, and disabled individuals should be prohibited from placement in solitary confinement for any period of time. The destructive impacts on susceptible prisoners who are placed in solitary confinement are illustrated through the case of Jack Powers. Powers, whose PTSD originated from incidents while incarcerated, is a prisoner at the ADX Supermax Prison in Colorado. Until recently he had been in Control Unit isolation for 12 years, where he was denied psychological care and medications for his condition. The stress of being in solitary confinement while suffering the full brunt of his illness led Powers to mutilate himself, including amputating fingers, earlobes, cutting his Achilles tendon, and removing his own testicle and scrotum.⁷ Powers was released from solitary only after a lawsuit was filed against the Bureau of Prisons.⁸ Prisoners with preexisting conditions that put them at high risk of harm while in solitary confinement must be protected from such placements.

“Obviously we are not human beings to them [the administration], we are merely a number. Most of the inmates in solitary confinement need mental help but are not receiving it.” – Anonymous, SCI Dallas Restricted Housing Unit⁹

Individual testimonies and medical research show that those placed in long-term solitary confinement are profoundly impacted by the conditions they experience in isolation. Prisoners in isolation commonly exhibit signs of psychological distress including hallucinations, hypersensitivity to noise and touch, insomnia, paranoia, feelings of rage and fear, distortions of time and perception, and PTSD.¹⁰ 50 percent of prisoners who take their own life are confined in segregation, yet this group of individuals living in isolation only comprises between six and eight percent of the total prison population.¹¹ The AFSC recommends a prohibition on all isolation lasting more than fifteen days, as advised by the U.N. Special Rapporteur for torture.¹²

An additional area of concern to the AFSC is the use of Communications Management Units (CMUs). CMUs are solitary confinement units in the federal system reserved for “inmates who due to their current offense of conviction, offense conduct, or other verified information, require increased monitoring of communications with persons in the community to ensure the safe, secure and orderly running of Bureau facilities, and to protect the public.”¹³ This definition fails to capture the ways in which this policy chills the exercise of free speech. A former Marion Prison warden, Ralph Arons, commented on the practical utility of the CMU at his facility, “(t)he purpose of the Marion Control Unit is to control revolutionary attitudes in the prison system and in society at large.”¹⁴ This goal is not reserved just for the Marion Prison. For example, in the 1980s three women were placed in isolation in a unit similar to a CMU (called the Special Housing Unit). In the court decision that led to the release of two of the women from solitary, the Judge

7 Andrew Cohen, *An American Gulag: Descending into Madness at Supermax*, The Atlantic, (Feb. 23, 2014, 4:12 PM), <http://www.theatlantic.com/national/archive/2012/06/an-american-gulag-descending-into-madness-at-supermax/258323/>.

8 John Jay Powers, “Finally Out and Among the Living”, The Colorado Independent, (Feb. 23, 2014, 4:36 PM), <http://www.coloradoindependent.com/145073/finally-out-and-among-the-living>.

9 Bonnie Kerness, “Torture in United States Prisons: Evidence of Human Rights Violations” at 13 (2012).

10 American Friends Service Committee, *supra* note 6.

11 Terry A. Kupers, “What To Do With The Survivors?: Coping With the Long-Term Effects of Isolated Confinement” at 1009 (2008).

12 United Nations News Centre, “Solitary Confinement Should Be Banned in Most Cases, UN Expert Says”, (Feb. 23, 2014 5:35 PM),

https://www.un.org/apps/news/story.asp?NewsID=40097&Cr=torture&Cr1=+ForceRecrawl:+0#.UwqCY_F1Rek.

13 U.S. Department of Justice, Federal Bureau of Prisons, *State of the Bureau 2007: Bureau of Prisons Staff: Everyday Heroes*, 2007.

14 Steve Whitman, *The Marion penitentiary: It should be opened up, not locked down*, The Southern Illinoisan, Aug. 7, 1988 at D25.

commented on the erosion of psychological health and constitutional rights for these women in solitary confinement:

*“Defendants may be concerned that the two plaintiffs will persuade inmates within the general prison population to share their political views, but those fears cannot be accommodated at the expense of constitutional rights...The treatment of the plaintiffs has skirted elemental standards of human decency. The exaggerated security, small group isolation and staff harassment serve to constantly undermine the inmates’ morale.”*¹⁵

Sadly, the assault on political prisoners continues. In 2008 the AFSC assisted Ojore Lutalo in obtaining the reason why he was placed in isolation at a New Jersey prison, “[The Department] continues to show concern regarding your admitted affiliation with the Black Liberation Army. Your radical views and ability to influence others poses a threat to the orderly operation of this Institution.”¹⁶ Non-citizens are also subjected to solitary confinement while in detention facilities. In 2012 approximately 300 people were kept in isolation while detained.¹⁷ This includes immigrants exercising their right to free speech, such as one immigrant father of three who reported that he was placed in solitary confinement after initiating a hunger strike to protest his detention. While in isolation he began suffering from gastrointestinal bleeding. When he informed jail staff of his condition he was told he would not be released from solitary and would be denied medical care unless he ended his hunger strike.¹⁸ The use of solitary confinement to isolate individuals based on their political stances and to subvert their free speech rights is unacceptable.

The policies behind CMUs are also disturbing because of the disproportionate impact on Muslim inmates who are assumed to be a security threat because of their faith. The Marion CMU Muslim population is 72%, 1200% higher than the national average of this religious group in federal prisons. This disparity also appears in the Terre Haute CMU where Muslim inmates represent two-thirds of the population.¹⁹

“There is no justice and no rights for someone like me who is a foreigner and Muslim... There are people here who don’t have any contact with the outside. They never write or get mail, they have no phone calls and no visits... All our visits, even with family, must be through glass. Stopping me from hugging my baby has nothing to do with national security!” - Yassin A., Communications Management Unit: Terre Haute²⁰

Religious belief should never be grounds on which individuals are subjected to isolation and hindered from communicating with loved ones. The AFSC calls for all CMUs to be immediately closed due to their disparate impact on people of color, religious minorities and political activists.

The use of solitary confinement in prisons and detention facilities on the federal, state, and local levels must be overseen by an independent body to ensure the rights of inmates are preserved and detention standards are respected. The very nature of solitary – restricted access to the outside world – creates an environment ripe for abuse and mismanagement. Below are examples of testimonies from prisoners who have endured ill treatment while in isolation:

“The conditions were very inhumane...hot, no working vents at all...my first cell bugs were biting me all over my body... They had a light on all day that felt like a rotisserie

15 Baraldini v. Meese, 691 F. Supp. 432 (D.D.C. 1988).

16 Kerness, supra note 9, at 5.

17 Detention Watch Network, “Expose and Close: One Year Later” at 10.

18 Id.

19 Center for Constitutional Rights, CMUs: The Federal Prison System’s Experiment in Social Isolation, (Feb. 24, 2014, 10:59 AM), <http://ccrjustice.org/cmu-factsheet>.

20 Kerness, supra note 9, at 29.

lamp. It was hard to sleep because of the hot humid cells and constant bugs biting me all day and night...we had no cups to drink the brown colored water that came out of the sinks and toilets.” – A.S. A., SCI Dallas Restricted Housing Unit²¹

“Some inmates bang on tables, bunks, doors, sinks, etc. and it seems like it never ceases. Other than that I hear guards yelling and cursing at people. Often I hear them use racial slurs and other derogatory terms towards inmates. The Cos tell inmates to ‘kill themselves’ and sometimes kick doors or clang keys to disturb our sleep.” Anonymous, SCI Dallas Restricted Housing Unit²²

“I witnessed several incidents of guard on inmate abuse. Once I saw two guards punch an inmate in the face while the inmate was handcuffed and shackled to a bench. I saw inmates slammed face first onto the concrete, often for nothing. These incidents cite only the overt physical abuse. The mental abuse, was, in some cases, worse...Even now, six months out of the hole I still remain affected. I withdraw from social interaction/setting. I feel frustrated for no apparent reason. Possibly the most damaging aspect of segregation is the sense of powerlessness. You can yell, scream, report misconduct and abuse to prison officials to no avail.” – Brian S., Jefferson City Correctional Center²³

The AFSC regularly receives communication from prisoners seeking relief from inhumane conditions and treatment in solitary confinement. Only a non-affiliated body of evaluators that conduct regular and ongoing visits to these facilities can address this human rights crisis.

The use of long-term solitary confinement violates both U.S. and international law. This practice is a breach of binding international agreements to which the U.S. is a part, including: The International Covenant on Civil and Political Rights (Art. 7, 10, 16); the U.N. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Art. 1,4); and the U.N. Declaration of Human Rights (Art. 5). This practice also runs afoul of the fundamental Constitutional right to be free from cruel and usual punishment.²⁴

“They’d blare the sound into the isolation cell so loud it hurt my ears. He’d then add pre recorded sounds of a guillotine hacking off limbs and several other sounds at the same time. They did this for days.” – Eric H, El Dorado Correctional Facility²⁵

Consistently violating numerous legal obligations on both the domestic and international levels to order to facilitate human rights abuses against prisoners cannot be tolerated. As a world leader, the United States has the responsibility to lead the international community in demonstrating respect for all of God’s creatures, without exception.

In conclusion, we urge the Subcommittee to move swiftly and take concrete actions to at the federal, state, and local levels to address mistreatment in isolation, including:

- Increase transparency on the use of solitary confinement by requiring all prisons, jails, and detention centers to report to the Bureau of Justice Statistics comparative data relating to use and implementation of isolation annually;
- Prohibit the use of solitary confinement for vulnerable populations, including juveniles, the elderly, prisoners experiencing mental illness, and disabled individuals;

²¹ Kerness, supra note 9, 13.

²² Kerness, supra note 9, at 13.

²³ Kerness, supra note 9, at 19.

²⁴ Bonnie Kerness, Statement of American Friends Service Committee to the Senate Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights, and Human Rights, (2012).

²⁵ Kerness, supra note 9, at 20.

- Prohibit the use of long-term isolation (fifteen days or longer);
- Close all Communication Management Units to ensure prisoners are able to exercise their human and civil rights without retaliation;
- Establish an independent oversight body to ensure prisoners are protected from ill treatment and their rights are protected; and
- Ensure all solitary confinement policies and practices conform to relevant domestic and international laws.

The American Friends Service Committee is heartened by the Subcommittee's leadership in holding this second hearing on solitary confinement. We appreciate the opportunity to present testimony drawn from our organizational experience with individuals and communities impacted by solitary confinement.