

Testimony of Piper Kerman
Hearing before the Senate Committee on the Judiciary
Subcommittee on the Constitution, Civil Rights and Human Rights
“Reassessing Solitary Confinement II:
The Human Rights, Fiscal, and Public Safety Consequences”
Tuesday, February 25, 2014

Chairman Durbin, Ranking Member Cruz, and distinguished members of the Subcommittee, I want to thank you all for this opportunity to address you and for organizing this important hearing.

I spent 13 months as a prisoner in the Federal Bureau of Prisons system from 2004-2005, with most of my time served at the Federal Correctional Institute in Danbury, Connecticut. From my first hours of incarceration, whispers and warnings about solitary confinement – better known as the SHU – came with frequency and from all quarters, prisoners and staff alike. One of the first women to befriend me in prison had just spent a month in the SHU for a minor infraction. Solitary confinement is a prison within a prison. But unlike the hive-like communities of people that exist behind prison walls, which have conflicts but also opportunities for redemption, 24-hour lockdown leaves you completely alone in a six-by-eight foot cell for weeks, sometimes months and even years. Here, the terror and the lasting damage of incarceration may be increased a thousand fold. This is unproductive for individuals, the institutions and the outside communities, to which the vast majority of prisoners will return.

If you are familiar with my book, *Orange is the New Black*, you know I’m the first to acknowledge that unlike many prisoners, I have the resources and support to take my own experiences in prison and use them to try to make critical improvements to this country’s criminal justice system. Since my release, I have worked with many criminal justice-involved women who need help advocating for the changes they need to be safe and to get back on their feet. I am here today in that capacity.

If you've watched the Netflix program adapted from my book, you may recall an episode in which the character that is based on me spends time in the SHU. Although today I will share many stories about solitary confinement, I mercifully did not spend any time in solitary. However, the way solitary confinement is handled on the show is an accurate depiction and the silencing effect of the SHU is very real.

Women in Solitary Confinement

When we think of solitary confinement, most of us don't picture *women* being subjected to this form of extreme punishment. But the truth is that women prisoners are routinely subjected to solitary confinement in jails, prisons and detention centers across the United States.ⁱ Increasingly, the American public and our leaders are learning about the profound negative psychological impacts of solitary confinement and the excessive number of people held in these conditions, but I want to talk about the unique harms and dangers of subjecting women prisoners to this practice.

Women are the fastest growing population in the criminal justice system and their families and communities are increasingly affected by what happens behind bars. At least 63% of women in prison are there for a nonviolent offense.ⁱⁱ However, some of the factors that contribute to these women's incarceration can also end up landing them in solitary confinement. Mental health problems are overwhelmingly prevalent in women's prisons and jails, which have a much higher percentage of mentally ill prisoners than in men's facilities.ⁱⁱⁱ High incidences of sexual and physical assault^{iv} are a reality for women in prison, jail, and immigration detention centers, both before and during their incarceration.^v These facts are very important in relation to the use of solitary. It is critical for our criminal justice system to address

the unique situation of women in prison—especially those women subjected to the social and sensory deprivation of solitary confinement.

While I was in prison, I saw many women sent to the SHU for minor infractions such as moving around a housing unit during a count, refusing an order from a correctional officer, and possession of low-level contraband like small amounts of cash (which is largely useless in prison) or having women's underwear from the outside rather than prison-issued underwear. All of these infractions drew at least 30 days in solitary. Sometimes women are sent to the SHU immediately upon their arrival in prison because there aren't any open beds. This is especially terrifying if a woman has never been in prison or jail before, which is often the case. Stories about the SHU are rampant – some told directly by the women who experienced solitary first hand, but often passed along from prisoner to prisoner. They all evoke terror and a conviction to keep your head down and report nothing that you see, hear or experience for fear that you may be locked down in isolation.

I have submitted for the record the full written testimony of Jeanne DiMola, who spent one year of her six-year sentence in solitary. She describes with chilling detail the neglect and abuse she endured while in the SHU and the impact the experience of extreme isolation still has on her as she works hard to get her life back on track. Jeanne writes: "When you have no one to talk to inside a grey, dingy cell with its blacked out window, you start talking to yourself, then you think your inner self at least deserves an answer, so I began answering myself. I asked myself what if I got swallowed into this black hole in my cell and just disappeared. I asked myself if it would be better off for my family if this thorn in their side went away for them so they can truly forget me. The best way I can describe being in this small box when life is going

on without you is you are dead and the cell is your coffin. Everything goes on without and around you. But you stay the same ... stagnant.”

Mental Illness

Mental health experts tell us that solitary confinement is psychologically harmful, especially for people with pre-existing mental illness. Serious mental illness can also result from prisoners’ experiences in solitary confinement. In studies of prisoners held in solitary confinement for 10 days or longer, people deteriorated rapidly, with elevated levels of depression and anxiety, a higher propensity to suffer from hallucinations and paranoia, and a higher risk of self-harm and suicide.^{vi} In solitary confinement units, some prisoners can be found sitting in puddles of their own urine, others smeared in their own feces. The sounds of prisoners shrieking in their cells and banging their fists or heads against the walls is nothing out of the ordinary. Extreme and grotesque self-mutilation is also all too common, such as prisoners who have amputated parts of their own bodies or, in one particularly disturbing case, a prisoner who sewed his mouth shut with a makeshift needle and thread from his pillowcase. Others attempt to or succeed in committing suicide. Regular correctional staff is simply not equipped to deal with the medical issues that are so prevalent within solitary confinement units.

Nearly 75% of women in prison are diagnosed with mental illness. The conditions of confinement are especially difficult for mentally ill people, as adherence to prison rules is simply more difficult for them. This leads to destructive and intense cycles of infractions and punishment. Prisoners with mental illness suffer in ways that make their behavior difficult to manage. They often end up in solitary confinement as a result of behavior that is beyond their

control. They are essentially punished for their illness.^{vii} Putting women with mental illness in solitary confinement only exacerbates a pre-existing illness. They often leave prison in far worse shape than when they went in. Women with mental illness will have great difficulty getting back on their feet and returning successfully to the community unless we mandate through all correctional systems that mentally ill women should not be held in solitary confinement, and should instead be appropriately managed with full medical care.

Consider the story of Jan Green. A 50-year-old grandmother and mother of four,^{viii} Jan was sent to Valencia County Jail in New Mexico on a domestic violence charge that was later dropped.^{ix} Staff at the jail knew she had mental health issues when she came in, but instead of giving her treatment, they pepper sprayed her for refusing to wear jail-issued clothing, and eventually put her in solitary confinement where she spent nearly two years in an 8-by-7-foot cell with a mattress on the floor for a bed.^x Because the water in her cell did not work properly, Jan was unable to wash her hands or shower.^{xi} Not only did her shower head not work, it dripped constantly.^{xii} The jail refused to give her toilet paper or sanitary napkins for long periods of time to the point where she was forced to wipe herself with paper bags from her sack lunch.^{xiii} When her family picked her up from jail, she was soiled from dried menstrual blood that had accumulated over several months.^{xiv}

Jan's mental health deteriorated from the constant water drips, being deprived of sanitation, and endless hours of isolation to the point that she spiraled into total psychosis and was ultimately deemed incompetent to stand trial.^{xv} Her daughter's ongoing attempts to get medical care for her mother failed. Not once was she seen by a psychiatrist or medical doctor.^{xvi} After months in solitary, Jan's lack of exercise and the poor hygiene caused her sock

to rot into an open wound on her foot.^{xvii} After nearly two years in solitary, the criminal charges against Jan were finally dismissed and she was released from custody.^{xviii} Her daughter describes the mother she used to know as “outgoing and outspoken,” but solitary confinement “shattered her as a person.”^{xix} When asked about Jan Green, the warden responded: “We’re just not equipped with dealing with mental health populations,” stating that it was an “economic decision not to provide mental health care.”^{xx}

Physical and Sexual Abuse

The effects of physical and sexual abuse are also worsened by solitary confinement. I have a vivid memory from early in my prison sentence: a woman who had done a lot of time shared a cautionary tale. She told me about a friend of hers who had gone home not long before; her friend had been sexually abused by a correctional officer, and the abuse was discovered. She told me: “They had her in the SHU for months during the investigation. They shot her full of psych drugs – she blew up like a balloon. When they finally let her out, she was a zombie. It took a long time for her to get back to herself. They do not play here.”

Fear of being put in solitary as “protective custody” has a chilling effect on women prisoners’ willingness to report sexual abuse, which is commonplace and sometimes rampant in prisons, jails, and detention centers. Another long-time prisoner warned me about a specific correctional officer, calling him a predator; her warning came with a reminder – if a woman ever reported him, she would be locked in the SHU. The terrible threat of isolation makes women afraid to report abuse and serves as a powerful disincentive to ask for help or justice.

In addition, solitary confinement itself can compound the impact of past physical and sexual abuse. A majority of women in state prisons across America report being victims of past physical or sexual abuse.^{xxi} In many prisons across this country, women in solitary confinement are watched by male guards during showers, when undressing and when using the toilet. For the majority of women prisoners who have been victimized by men in the past, being watched by male guards during their most private moments can cause acute psychological suffering.^{xxii}

A recent Equal Justice Initiative investigation into sexual abuse at Alabama's Tutwiler Prison for Women found that women who report sexual abuse, "are routinely placed in segregation by the warden."^{xxiii} In the notorious Otter Creek Correctional Center in Kentucky, a woman who saved evidence from her sexual assault (an epidemic problem within the prison with multiple victims) was reportedly placed in segregation for 50 days.^{xxiv} At the Dwight Correctional Center in Illinois, a woman alleged in court documents that she was repeatedly raped by prison staff, eventually resulting in a pregnancy and the birth of her son.^{xxv} When the woman tried to report the assaults, she was placed in solitary confinement, and threatened with a longer sentence.^{xxvi}

Women who are sexually abused by prison guards are forced to decide between reporting the attack and risking placement in solitary, where they will suffer extreme pain and psychological deterioration, or staying silent and risking further abuse of themselves or others. The use of solitary confinement for "protective custody" perpetuates the cycle of abuse and makes women's prisons more dangerous for the women who live behind their walls.

Impact on Children and Families

In addition to the damaging effects solitary confinement has on women prisoners, children and families also suffer. Solitary confinement impedes access to important pre-natal and women's health care services. In fact, pregnant women in solitary confinement often receive no medical care.^{xxvii} Yet pregnant prisoners in America are still sent to the SHU.

I want to tell you about a female inmate in Illinois who I'll call Meghan out of respect for privacy. She had battled depression for years, and found herself pregnant behind bars. Because of her pregnancy, Meghan had to discontinue some of her mental-health medications. She also needed extra sleep. One day, a guard decided Meghan didn't get up fast enough for mealtime and sent her to solitary confinement as punishment. In solitary, Meghan didn't get her prenatal vitamins. Her requests for water were denied — sometimes for several hours, despite the heat in her isolation cell and the known danger of dehydration during pregnancy. Worse yet, the extreme social isolation in solitary further hampered her fight against clinical depression.

Solitary confinement can also cause lasting damage to families and children. The majority of women in prison were their children's primary or sole caregiver prior to incarceration.^{xxviii} When these women are incarcerated, maintaining any semblance of a relationship with their children largely depends on regular visitation.^{xxix} A child's need to see and hold his or her mother is one of the most basic human needs. Yet visitation for prisoners in solitary confinement is extremely limited, with contact visits often forbidden, and often all visitation privileges revoked. This is true even if the infraction is minor, like possession of contraband or disobeying an order.

These visitation restrictions mean that, when a mother is held in solitary confinement, her children's visits are either limited to interactions through a physical barrier, such as a glass partition, or eliminated altogether.^{xxx} Through a partition, a child cannot give his or her mother a hug, or hear her voice clearly. The separation is clear. Solitary punishes innocent children.

Conclusion

For many female prisoners, solitary confinement exacerbates the mental health issues and histories of trauma and abuse with which they already struggle. Most women in prison have not committed violent crimes and are not prone to resort to violence while incarcerated. Solitary confinement is an extreme form of punishment, yet its use within women's prisons is routine – sometimes even sinister when it serves to silence women who are being victimized.

We should all share the same goal here: to curb the unnecessary use of solitary confinement in any form. This is possible, and it happens when correctional leaders and staff do the right thing. Last week, I visited the Marion Correctional Institution, a medium security men's state prison in Ohio. It houses a little more than 2,600 men. Since 2011, they have reduced the number of beds at Marion Correctional needed for "administrative segregation" – long-term solitary confinement – by 48 beds, from 175 to 127. They have cut one SHU unit and converted those beds into different, more productive housing. They did this along with an increase in population of approximately 900 men. This change was not the result of a special initiative focused on the SHU. Rather, within the entire institution, the warden and his staff increased prisoners' access to meaningful activities and rehabilitation, to work opportunities, and to incentive-based programs, and in the process they saw solitary confinement numbers

come down. This is good for the institution as a whole – prisoners, staff and administration – and proves the point of getting good outcomes in correctional systems: it is always a question of strong leadership and recognition that it is human beings that fill our prisons and jails.

Isolation should only be used when a prisoner is a serious threat to her own safety or that of others; it should never be a long-term solution. When isolation is necessary, the conditions must be humane and rehabilitative. We must ensure that women with mental illness and pregnant women are never subject to solitary. And we must prevent women from being sent to solitary for reporting abuses.

As the Federal Bureau of Prisons pursues an independent assessment of its solitary practices, I urge it to include an assessment of practices at a women's facility, such as the FCIs at Tallahassee, Dublin or Alderson, and take action to limit the use of solitary on women. I ask the assessors to visit as many women's facilities as possible, and to include in the assessment confidential discussions with the women who are incarcerated in those facilities.

I am exceptionally proud to say that last week, my home state of New York announced sweeping reforms of the use of solitary confinement, including the prohibition of placing pregnant women in disciplinary solitary confinement. New York is the first state to agree to this important provision, and the Bureau of Prisons and other states should adopt the same set of sensible comprehensive reforms.

Thank you for the opportunity to participate in this important hearing and to help the Subcommittee address this very significant issue. I am hopeful that it will mark the next step in urgently needed and long-term oversight and reform.

ⁱ See Joane Martel, *Telling the Story: A Study in the Segregation of Women Prisoners*, 28 SOC. JUST. 196, 196-197 (2001) (giving an overview of the literature on solitary confinement and finding almost no literature on women in solitary confinement); Cherami Wichmann & Kelly Taylor, *Federally Sentenced Women in Administrative Segregation: A Descriptive Analysis* (2004) (first quantitative study on segregation of federally sentenced women in Canada). See also *infra* at 19 and accompanying text.

ⁱⁱ In 2010, 37% of women in state prison were held for a violent offense, compared with 54% of men. E. ANN CARSON & WILLIAM J. SABOL, BUREAU OF JUST. STAT., PRISONERS IN 2011 9 TBL. 9 (2012), available at <http://www.bjs.gov/content/pub/pdf/p11.pdf>.

ⁱⁱⁱ DORIS J. JAMES & LAUREN E. GLAZE, BUREAU OF JUST. STAT., MENTAL HEALTH PROBLEMS OF PRISON AND JAIL INMATES 1 & 4 Tbl. 3 (2006), available at <http://www.bjs.gov/content/pub/pdf/mhppji.pdf> (“An estimated 73% of females in State prisons, compared to 55% of male[s] had a mental health problem[.]. In Federal prisons, the rate was 61% of females compared to 44% of males; and in local jails, 75% of females compared to 63% of male[s].”).

^{iv} In state prison, 57.6% of women reported past physical or sexual abuse, compared to 16.1% of men. In federal prisons, 39.9% of women reported past abuse, compared to 7.2% of men. In jails, 47.6% of women reported past abuse, compared to 12.9% of men. CAROLINE WOLF HARLOW, BUREAU OF JUST. STAT., PRIOR ABUSE REPORTED BY INMATES AND PROBATIONERS 1 (1999), available at <http://www.bjs.gov/content/pub/pdf/parip.pdf>. More than a third of women in state prisons or local jails reported being physically or sexually abused before the age of eighteen.

^v Human Rights Watch, *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* (1996), available at <http://www.hrw.org/legacy/reports/1996/Us1.htm> [hereinafter *All Too Familiar*] (“One of the clear contributing factors to sexual misconduct in U.S. prisons for women is that the United States, despite authoritative international rules to the contrary, allows male correctional employees to hold contact positions over prisoners, that is, positions in which they serve in constant physical proximity to the prisoners of the opposite sex.”).

^{vi} See Craig Haney, *Mental Health Issues in Long-Term Solitary and “Supermax” Confinement*, 49 CRIME & DELINQ. 124 (2003); Stanley L. Brodsky & Forrest R. Scogin, *Inmates in Protective Custody: First Data on Emotional Effects*, 1 FORENSIC REP. 267 (1988); Stuart Grassian, *Psychopathological Effects of Solitary Confinement*, 140 AM. J. PSYCHOL. 1450 (1983); Holly A. Miller & Glenn R. Young, *Prison Segregation: Administrative Detention Remedy or Mental Health Problem?*, 7 CRIM. BEHAVIOR & MENTAL HEALTH 85 (1997). See generally HANS TOCH, *MOSAIC OF DESPAIR: HUMAN BREAKDOWN IN PRISON* (1992).

^{vii} *Id.* (describing how some of the women in the California SHU were placed in solitary for behavior that can be a sign of mental health problems).

^{viii} Compl. at 2, 13, *Green v. Chavez*, No. 12-CV-1260 MV/KBM, (D. N.M. 2012).

^{ix} *Id.* at 3.

^x *Id.*

^{xi} Chris Ramirez, *4 On Your Side Exposes County Jail Shortcomings*, EYEWITNESS NEWS 4KOB, Feb. 14, 2014, available at <http://www.onenewspage.us/video/20140208/1612385/On-Your-Side-exposes-county-jail-shortcomings.htm>.

^{xii} Compl. at 9; Ramirez, *supra* note 6.

^{xiii} Compl. at 10-11.

^{xiv} *Id.* at 11; Ramirez, *supra* note 6.

^{xv} *Id.* at 4.

^{xvi} *Id.* at 3, 7, 15, 17.

^{xvii} *Id.* at 5.

^{xviii} *Id.*

^{xix} Ramirez, *supra* note 6.

^{xx} *Id.*

^{xxi} BUREAU OF JUSTICE STATISTICS, PRIOR ABUSE REPORTED BY INMATES AND PROBATIONERS, *supra* note 11, at 1; *see also* LAPIDUS ET AL., CAUGHT IN THE NET, *supra* note 8, at 47-48 (describing the vulnerabilities of women in prison and in particular the phenomenon of re-traumatization experienced by incarcerated women who have been victims of physical and sexual abuse prior to their incarceration).

^{xxii} *See supra* note 12 and accompanying text; *supra* note 49 and accompanying text.

^{xxiii} *See* Equal Justice Initiative, Findings: Equal Justice Initiative Investigation Into Sexual Violence at Tutwiler Prison for Women 2 (May 2012), *available at* http://www.eji.org/files/EJI%20Findings_from_Tutwiler_Investigation.pdf.

^{xxiv} *See* Kevin Dayton, *Incident Leads to Changes at Prison*, HONOLULU ADVERTISER, Oct. 2, 2008 (detailing the reports of abuse, and noting that the victim was from Hawai'i); *see also* Gary Hunter, *Sexual Abuse by Prison and Jail Staff Proves Persistent, Pandemic*, PRISON LEGAL NEWS, Feb. 21, 2014, *available at* https://www.prisonlegalnews.org/21225_displayArticle.aspx (summarizing many recent cases of sexual assault and rape in prisons across the country).

^{xxv} *See* Complaint at 3-5, Doe v. Denning, No. 1:08-cv-01265, Doc. 1 (Mar. 3, 2008, N.D. Ill. E. Div.), *available at* <http://ia600402.us.archive.org/31/items/gov.uscourts.ilnd.217697/gov.uscourts.ilnd.217697.1.0.pdf>.

^{xxvi} *See id.* at 4

^{xxvii} *See* Testimony by the Correctional Association of New York Before the Senate Judiciary Committee's Subcommittee on the Constitution, Civil Rights and Human Rights, *supra* note 32, at 4 (“[I]solation can compromise women’s ability to fulfill their particular needs related to reproductive health care, for instance by impeding pregnant women’s access to critical obstetrical services, preventing them from getting the regular exercise and movement vital for a healthy pregnancy. Similarly, women in isolation may be dissuaded from requesting care related to sensitive gynecological issues because they are required to inform correction officers about details of their medical problem, may have serious difficulty accessing appropriate medical staff when they do reach out, may be shackled during gynecological appointments that do occur, and will often interact with medical providers in full view of correction officers and/or receive superficial evaluations through closed cell doors.”); Interview with Gail Smith, Exec. Dir. CLAIM IL (May 15, 2013).

^{xxviii} GLAZE & MARUSCHAK, *supra* note 17, at 4.

^{xxix} SUSAN D. PHILLIPS, THE SENTENCING PROJECT, VIDEO VISITS FOR CHILDREN WHOSE PARENTS ARE INCARCERATED: IN WHOSE BEST INTERESTS? 1-2 (2012), *available at* http://sentencingproject.org/doc/publications/cc_Video_Visitation_White_Paper.pdf (describing the importance of and barriers to visitation of incarcerated parents).

^{xxx} *Id.*, at 3-5 (recognizing that video visitation is *not* a substitute for face-to-face visits, but can be useful when used in addition to face-to-face visits); THE UNIVERSITY OF VERMONT, PRISON VIDEO CONFERENCING 2 (noting in-person visitation is most effective and advising that virtual visitation should be used to increase parent-

child contact, not to replace in-person visitation); *Graham v. Graham*, 794 A.2d 912, 915 (Pa. Super. Ct. 2002) (noting virtual visitation is not equivalent to in-person visitation for a parent).