

BURIED ALIVE

Long-Term Isolation in California's Youth and Adult Prisons

By Laura Magnani

American Friends Service Committee—Oakland

May 2008



**American Friends
Service Committee**

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The real motivation and urgency around this report comes from the men, women, and children on the inside who have been writing to us for years, sharing their stories, their pain and their poetry. It is for them and with them that we have compiled this material and that we launch this campaign to stop the use of long-term isolation.

Cover drawing: “Captive,” by Todd Tarselli

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INTRODUCTION

The American Friends Service Committee (AFSC) is launching a national campaign, called STOPMAX, in May 2008, calling for the end of the use of solitary confinement in U.S. prisons. It is the successor of a campaign which Bonnie Kerness, of the New York Metropolitan Region of the AFSC, conducted in the early 1990s, when the development of security housing units was beginning its ascent. In California, the premiere organization to focus on these new “maxi maxi prisons” has been California Prison Focus (CPF). Under the leadership of Dr. Corey Weinstein, Luis (Bato) Talamantez, Charles Carbone, Georgia Schreiber, Leslie DeBenedetto, Judy Greenspan, and many others, CPF has conducted interviews with prisoners in these units and reported their findings. AFSC owes a great debt to these courageous folks, along with our brothers and sisters inside who are living for years at a time under the extreme conditions described herein. The other debt we owe is to the lawyers and psychiatrists who have challenged prison conditions in California and stuck around for decades to help monitor compliance. That would include the Prison Law Office, Don Specter, Steve Fama, Sara Norman and others, as well as Jane Kahn, of Rosen, Bien & Galvan, and Sarah Chester from the California Appellate Project. On the psychology end of things, Terry Kupers and Craig Haney have both made huge contributions in bringing horrific conditions to light. These folks are our heroes in this work. This is not a story that the public seems to want to hear. However, if we

continue to anesthetize ourselves to the horrors being committed in our names, there is no hope for positive change.

In May 2007, the AFSC Arizona office published *Buried Alive: Solitary Confinement in Arizona's Prisons and Jails*. This report is intended to be the California story of isolation in the state prisons and juvenile facilities.

A cautionary note is necessary. Many of the statistics offered are estimates based on the research we have been able to do. Often the California Department of Corrections and Rehabilitation (CDCR) doesn't keep statistics, especially about topics that may reflect on it negatively. Just as police departments

have resisted efforts to require them to collect racial information about the arrests they make, racial information about who is held in the

harshest conditions in our prisons is not routinely documented. However, from the direct contact AFSC has had with these institutions, and with the interviews CPF has conducted for many years, we believe the portrait depicted here to be accurate. It is not a pretty picture. In fact, the extent of the abuse and horror we found astounded even the most seasoned among us. Readers are cautioned that the material in these pages is graphic and disturbing at a very deep level.

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“Jumah al Dossari, a thirty-three-year-old Bahraini national, is the father of a young daughter. He has been held at Guantanamo Bay for more than five years. In addition to being detained without charge or trial, Dossari has been subjected to a range of physical and psychological abuses, some of which are detailed in Inside the Wire, an account of the Guantanamo prison by former military intelligence soldier Erik Saar. He has been held in solitary confinement since the end of 2003 and, according to the U. S. military, has tried to kill himself twelve times while in the prison. On one occasion, he was found by his lawyer, hanging by his neck and bleeding from a gash to his arm.”

Death Poem

Take my blood.
Take my death shroud and
The remnants of my body.
Take photographs of my corpse at the grave,
lonely.

Send them to the world,
To the judges and
To the people of conscience,
Send them to the principled men
and the fair-minded.

And let them bear the guilty burden,
before the world,
Of this innocent soul.
Let them bear the burden, before their children
and before history,
Of this wasted, sinless soul,
Of this soul which has suffered at the hands
of the “protectors of peace.”

— by Jumah Al Dossari¹

What Is a Supermax?

“I’m a prisoner, not a puppet...A man, not an animal...And although I’ve endured this hell, I will never accept it.” (Corcoran Security Housing Unit prisoner, 2006)

Solitary confinement is known by various names in prison systems, depending on the facility: supermax units, management control units, secure housing units (SHU), closed custody units, separation, special management units (SMU), Administrative Segregation (Ad Seg) and the Adjustment Center. This report will focus on the use of long-term isolation.

Generally in correctional settings, there are two types of segregation: disciplinary and administrative. Disciplinary segregation, referred to by prisoners as “the hole,” is applied as a short-term punishment for breaking prison rules. By contrast, administrative segregation is reserved for those prisoners deemed to pose a serious risk to other prisoners, and is carried out often, but not exclusively, in independent, supermax facilities.

Although both types of segregation are thought to have a sensory deprivation environment, it is often the case that they constitute a sensory overload, with yelling, clanging of doors, loud commands shouted by staff, etc. Conditions in these units also involve severe loss of privileges, such as access to phones, showers, and outdoor recreation. The difference is that administrative segregation is now being used over extended periods of time (six months to several years), sometimes for the person’s entire sentence. In Laura Sullivan’s 2006 *National Public Radio* series, “Life in Solitary Confinement,” she states that most prisoners held in solitary confinement throughout the U.S. “have been there for more than five years.” Increasingly, people are being sent straight to such units without ever spending time in the general prison

1 Reprinted from *Poems from Guantanamo* by Marc Falkhoff, with the permission of the University of Iowa Press.

population. Many are then being released directly back to their communities.

In addition to SHUs and SMUs, there is another version of isolation unit, most commonly called “Protective custody.” Protective custody is used for people who would themselves be in danger if placed in the general population. Sometimes a prisoner is placed in protective custody at his or her request. More frequently, the institution makes that determination. Gay, transgender and gender variant prisoners are often housed in these units, whether or not they request it, and are thereby denied equal access to visits, phone calls, job opportunities, and educational offerings. In California and elsewhere in the U.S., departments of corrections often do not have the facilities to provide general population level programs for prisoners separated for their own protection, so they throw them into some kind of segregation unit. The people from whom they are being protected may be placed in Ad Seg or SHU—in the same unit where those requiring protection are being held. This is a violation of American Corrections Association standards, which require protective custody with the same programs and amenities that would be available to that prisoner if he or she was not in protection. It should also be said that recently, in California, some protective custody prisoners are being sent to “Sensitive Needs Yards” which provide greater access to yard time, vocational and other kinds of education. It is not clear how many have access to this broader range of programs.

Although this report focuses primarily on security housing units, our concern is with long-term isolation of any kind. Therefore our statistics, though hard to verify precisely, include estimates of the broader use of lock-down facilities in California Department of Corrections and Rehabilitation (CDCR) prisons.

HISTORY

In 1972, a new type of prison unit was established in the Marion Federal Penitentiary in Illinois. Called the Management Control Unit, the facility was described by one prisoner as a “prison within the prison.” Marion was not built as a control unit. Following an incident in which a guard was killed, a large part of the penitentiary was essentially converted into one. This prompted the building of prisons for the specific purpose of solitary confinement, beginning with the building of the Administrative Maximum Facility (ADX) in Florence, Colorado. In these places, prisoners were held in solitary confinement for extended periods of time, with few opportunities for exercise, showers, or rehabilitative programming. At the time, the Marion control unit held sixty prisoners, and was one of a handful of such units around the country. In 1985, there were approximately half a dozen such units. According to a 2003 AFSC report, by 1997, forty-five states, the Federal Bureau of Prisons, and the District of Columbia were operating control units.²

The U.S. Bureau of Justice Statistics reports a dramatic increase in the use of isolation in U.S. prisons between 1995 and 2000.

During that period, the Commission on Safety and Abuse in America’s Prisons found that “the growth rate of the number of prisoners housed in segregation far outpaced the growth rate of the overall prison population:

The U.S. Bureau of Justice Statistics reports a dramatic increase in the use of isolation in U.S. prisons between 1995 and 2000.

² Kamel, Rachael, and Bonnie Kerness, *The Prison Inside the Prison: Control Units, Supermax Prisons, and Devices of Torture*. Philadelphia: American Friends Service Committee, 2003.

40 percent compared to 28 percent.” In 2002, Human Rights Watch reported that over 20,000 prisoners, almost 2 percent of the U.S. prison population, were being held in long-term solitary confinement.³ Last year, Kevin Johnson reported in *USA Today* that 70,000 people were housed in isolation nationwide.⁴

The advent of these highly secure facilities coincided with the huge prison building boom begun in the 1980s. The number of people incarcerated in the U.S. quintupled, nationally, in a 25-year period, “with no increase in resources devoted to corrections in general, or to programming and mental health services in particular” (Haney & Zimbardo, 1998). Indeed, rehabilitation as a goal of imprisonment was abandoned wholesale and security housing units became the emblem of the intensified punishment model. The fact that solitary confinement had been tried periodically from the invention of the penitentiary onward, and was abandoned on both effectiveness grounds and decency grounds, was completely ignored. *Trop v. Dulles* (1958), is one example of litigation underscoring the ineffectiveness and indecency of solitary.

CONDITIONS

Prisoners in supermax units often are confined alone in single cells; two prisoners are often held in 6' x 10' cells. (If there is anything worse, or perhaps more dangerous than isolation, it is isolation and idleness with a cellmate.) The cells contain only the most basic of accommodations, generally a double bunk bed, a toilet and sink, and possibly another protruding slab for a desk. Prisoners describe either an “eerie silence” in the units, stemming

from the cells being entirely soundproof, or the opposite: a din of constant noise—including yelling and screaming—twenty-four hours a day. Most cells have no windows and it is impossible for a prisoner to know whether it is night or day. Prisoners often complain of the lights being left on twenty-four hours per day, causing them to lose track of time entirely. Of course, without windows, confinement in the dark would be even worse.

Contact with other human beings is extremely limited. Prisoners eat alone in their cells and are permitted to exercise alone in a cage or concrete room for approximately 30 minutes a day. Most interaction with staff occurs through a slot in the steel door through which food and other items are passed to the prisoner. Cell “shakedowns” are common, and prisoners are routinely strip searched before leaving their cells for any reason and again upon their return. These searches frequently include body cavity searches. Educational or rehabilitative programming is rare. They are not permitted to hold prison jobs. Visits, telephone calls, and mail are severely restricted and reading material is censored. Access to prison “programs,” such as classes, AA groups, or counseling is nonexistent.

A common practice in these units is “cell extraction.” This is a procedure, used at the discretion of the prison administration, where prisoners are confronted with from four to six riot-clad officers, batons drawn, descending upon the prisoner, often hog tying him/her, and removing him/her from the cell. This could be precipitated by something the prisoner is alleged to have done, or by information the prison has gathered suggesting some kind of security breach that inspires maximum force. We name it here as a “condition,” because it appears to be part of the landscape of this form of harsh punishment.

3 IBID.

4 Johnson, Kevin, “Inmate suicides linked to solitary,” *USA Today*, December 27, 2006.

CALIFORNIA

California State Prison, Corcoran (Corcoran) was California's first state prison to isolate prisoners in a supermax unit. It began in 1988, and one year later, California opened its first prison specifically designed as a supermax: Pelican Bay State Prison (PBSP) in Crescent City. California is one of more than forty states with specially designed supermax facilities.⁵ As outlined above, the names of these units vary from state to state and jurisdiction to jurisdiction. In California, the term Security Housing Unit or "SHU," is used. As the CDCR states on its website, "PBSP is designed to house California's most serious criminal offenders in a secure, safe, and disciplined institutional setting."⁶ Upon closer inspection, questions arise regarding the validity of this statement. Are SHUs actually housing the "most serious" criminal offenders? Are the settings helpful or

harmful to the institution as a whole? This report will attempt to answer these questions.

Aside from Pelican Bay, there are four other SHUs in operation in the CDCR: California State Prison, Corcoran (COR); the California Correctional Institution (CCI), in Tehachapi; High Desert State Prison in Susanville (HDSP); and the Valley State Prison for Women (VSPW), in Chowchilla.

Statistics from the CDCR reported in April 2008 showed Pelican Bay with 1,101 SHU prisoners, Corcoran with 1,318, CCI with 775, HDSP with 400, and VSPW with 72. In addition, on a given day, approximately 7,354 men and 119 women are held in Ad Seg. Another 256

The total number of people in long-term lock down in California on a given day exceeds 14,600



Exercise cages, San Quentin
(Artist: Kendal Au)

5 Sullivan, Laura, "Life in Solitary Confinement." *National Public Radio*, July 26, 2006.

6 "Pelican Bay State Prison—Mission Statement," <http://www.cdcr.ca.gov/Visitors/Facilities/PBSP.html>.

people are in psychiatric lock down units and an estimated 1–2 percent of the total population is held in protective custody.⁷ The count then, for protective custody estimated at 1.5 percent would be 2,580, based on an approximate population of 170,000 as of this writing. The total number of people in solitary in California would be 14,529.

Added to those numbers are the 80–100 men in the Adjustment Center (AC) of California’s death row. All prisoners sent to death row start out in lock down, usually for an assessment period of approximately 90 days. For a prisoner to be transferred out of the AC, prison officials must determine that the prisoner has no recent violence, no gang affiliation, and is not an escape risk. People found to have any of these characteristics can be kept in AC indefinitely. They are allowed only nine hours a week out of their cells, no phone access, one package a year (compared to quarterly packages available to most prisoners) and a more limited canteen draw. At present it appears that the largest indeterminate AC population on death row is alleged to have ties to the Mexican Mafia. The second largest category that we have been able to determine anecdotally is people seen to have connections to the Aryan Brotherhood. The AC also includes condemned mentally ill prisoners who have been “acting out.” The AC cells are 7’ x 6’ compared to 4½’ x 11’ in a regular death row cell.

Of the fifteen women on death row in California, all are single celled, but are allowed out of their cells for “pod time”—that is, time in a common area where they can visit with each other, use the telephone, play games, etc. Women can be confined to their cells and lose their pod time and other privileges for disciplinary infractions.

Assuming these calculations are correct, the total number of people in long-term lock down in California on a given day exceeds 14,600.

	Men	Women
SHU (Security Housing Units)*	3,570	72
Ad Seg (Administrative Segregation)*	7,500	120
Protective Custody*	2,550	50
PSU (Psychiatric Services Units)	313	0
EOP (Enhanced Outpatient Program)	356	0
Death Row AC (Adjustment Center)*	90	0
Total:	14,379	242

* estimate

Finally, we have recently learned that prisoners in “reception centers” are confined in double cells twenty-three hours a day, with only thirty minutes out of the cell for breakfast and dinner. For the most part, they are not allowed access to religious services, classes or programs, or the recreation yard, although individual institutions may provide some yard time. These conditions last as long as it takes to “process” incoming prisoners, anywhere from three months to a year. The total number in reception as of April 3, 2008 was 28,381. According to a volunteer at San Quentin State Prison (SQSP), the oldest state prison in California, “The despair I have seen at the reception center at San Quentin outweighs that felt on death row . . . For the men locked inside all day and night, it is excruciatingly stressful.”

None of the above calculations takes into consideration the fact that whole institutions are “locked down” in California for months at a time. In these instances, prisoners are confined to their cells and recreation, classroom instruction, and visits are drastically curtailed.

7 Human Rights Watch, 2001.

“My son was able to escape the frightening conditions of 4-A, one of two SHU units, (guards setting up rooster fights and shooting from the tower) by reading—although he did experience one of the set up fights—not by choice. We all sent books, as many as we could each month, and newspapers and magazines which he passed along to others. But, in this, reading and family, he was more fortunate than most.

“Because Corcoran was off in the middle of nowhere and the guard’s union was so powerful, murder and mayhem on the part of a few guards prevailed in 4-A of the Corcoran SHU. Despite photos of yard fights and the Preston case, no guard was punished. It was almost as frightening to be a parent at that time as to be a prisoner.” (Parent of a SHU prisoner, California, 2008)

THE WAY TO THE SHU...or Who Is the “Worst of the Worst”?

The California Department of Corrections and Rehabilitation gives the following five reasons for remanding a prisoner to the SHU:

1. Attacking a guard.
2. Attacking another prisoner.
3. Weapons violations.
4. Drug sales.
5. Validation as a gang member.

AFSC’s experience demonstrates that prisoners with radical political views, prisoners who demonstrate leadership abilities, and “jail house lawyers” are often held in the SHU—some of them for decades. We would be remiss if we did not add this to the “official list.” “Security Threat Groups” (STGs) is another classification prisons use for people they consider a threat. In California, the term “Disruptive Group”

is used for such prisoners. These and similar designations carry heavy political overtones. Just as the term “terrorist” is applied very broadly today, particularly to people of Arab descent, prisoners labeled “threatening,” “dangerous,” or simply “disruptive” can find themselves in long-term isolation. An argument can be made that the first security housing units in the federal prison in Marion, and later in Florence, were created to punish political activists caught up in COINTELPRO, organizing for Puerto Rican liberation, sovereignty for First Nations peoples, and other forms of self determination. Though political prisoners make up a small portion of the 2.3 million people currently imprisoned in the U.S., in AFSC’s experience over the years, they make up a disturbingly large percentage of the control unit population.

According to the CDCR, the first four of the above five reasons for segregating prisoners carry determinate time periods in the SHU. The Department claims that the average determinate term for the SHU in 2005–2006 was 109 days.⁸ While the first four reasons are behavior-based, the fifth reason for confinement is threat-based. In other words, prisoners are sent there not for something they *did*, but for *who* someone judges them to *be*. It is this reason that assigns a prisoner to a SHU for an indeterminate period of time. By law, all other reasons for SHU confinement require that a definite time be set, but the CDCR has unlimited discretion to re-classify someone from determinate to indeterminate. In other words, **prisoners who have not actually done anything are the ones who serve the longest time in these units.** According to State Senator Gloria Romero, “A validated gang member could conceivably spend the rest of his life in a SHU.”⁹

⁸ California Department of Corrections Population Report.

⁹ Romero, Gloria, Select Senate Committee on the California Correctional System: Hearing, September 15, 2003.

Validation as a gang member comes about at the discretion of prison staff. It is based on information, from at least three sources, that a person is involved in, *or associated with*, gang activities including drug trade, ordering attacks of adversaries in other prisoner groups, or orchestrating assaults or murders on the outside. Half of the nearly 3,000 SHU prisoners in California are validated gang members. The process used for determining their gang status does not involve typical “due process” safeguards, such as the right to be represented or to know the basis of the allegations.

The appeal process is highly frustrating and as far as the administrative level goes...appeals are lost, misplaced, or delayed regularly. Even when properly filed/reviewed, the complained violation is never addressed with any expediency or efficiency...Prison officials operate on a code of silence and will act very slowly, if at all, to correct or hold one of their own accountable when they are found to be in violation. (Corcoran SHU Prisoner, 2006)

The Winter 2007 issue of *Prison Focus* from California Prison Focus contained a letter from Victor C. Rodriguez demonstrating that prisoners using the Native American language “Nahautl” have been validated as gang members. He writes: *“At any time, officers search cells and are instructed to confiscate our art, Nahuatl studies, and any Nahuatl literature. The reason, we’re told: ‘gang-related.’ This is nothing but culture deprivation, as well as racial discrimination.”*

According to CDCR officials, California uses a point system in its “formal validation investigation.” An institutional gang investigator gathers the “evidence.” As little as three sources or points of evidence can validate a person. After gathering the evidence the investigator will sit down with the prisoner and discuss non-

confidential information, which the prisoner can then attempt to rebut.

Our research paints a somewhat more arbitrary picture. The use of the “gang” label by prison authorities is fraught with racial stereotyping and political repression. What is sometimes labeled a gang could be a group of activist prisoners who are organizing on their own behalf. The actual definition of “gang”, found in the CDCR Operations Manual, reads:

“A gang is defined as any ongoing formal or informal organization, association, or group of three or more persons, which has a common name or identifying sign or symbol whose members and/or associates engage or have engaged on behalf of that organization, association, or group in two or more illicit activities which include, but are not limited to, planning, organizing, threatening, financing, soliciting or committing unlawful acts or acts of misconduct classified as serious pursuant to CCR Section 3315.” (Sec. 52070.16)

In addition to this description, “recognized disruptive groups” include “revolutionary groups,” “motorcycle gangs,” “precursor gangs that might become prison gangs,” and “terrorist groups/affiliates.” (Sec. 52070.17.4)

Despite the fact that 51 percent of the states surveyed in a 1997 Department of Justice publication did not have a uniform definition of a gang or Security Threat Group (STG), individuals are “validated” as gang members by prison staff and administration. 80 percent did not have a formal validation process. Yet all but one state had developed a STG policy and departments of corrections throughout the country have spent millions of dollars identifying gang members, constructing “gang blocks” or units, and creating

As a result of these practices, a person can be placed in the SHU indefinitely, on mere hearsay or the slimmest evidence.

And because of the intensely racial nature of gang designations, a person's racial identity can be the primary motivator in the "validation" process. Not surprisingly, those imprisoned in the gang units throughout the U.S. are primarily young people and/or people of color. Once isolated in one of these units, prisoners report that the only way to secure release is to "renounce, parole, or die." According to CDCR specifications, it is also possible to become "inactive," but this requires six years in the SHU with no identified contact or gang related activity.

programs to "debrief" gang members who are willing to renounce their affiliation.¹⁰

As a result of these practices, a person can be placed in the SHU indefinitely, on mere hearsay or the

PAROLE, SNITCH, OR DIE?

How do SHU prisoners gain release from such harsh conditions and find their way back to the "mainline?" It is possible for a prisoner to "debrief" with department officials about his or her gang experience. In some contexts this is seen as "snitching" and comes with huge risks to the person "giving evidence." As with all coerced situations, desperation can cause people to say anything, or implicate anyone, just to find relief. As human rights advocates have maintained throughout history, reliable information does not come from torturing suspects.

¹⁰ Magnani, Laura, and Harmon L. Wray, *Beyond Prisons: A New Interfaith Paradigm for Our Failed Prison System*, Minneapolis: Fortress Press, 2006, p. 103.

Some SHU prisoners are serving fixed sentences and are released directly from solitary confinement. The danger to the public of such practices is self evident: people going from extreme sensory deprivation, with little human contact over a long period, have an extremely difficult time transitioning to life outside.

"I also want to find out what happens when a prisoner paroles out of a SHU and back into a community. Since the year 2000, there have been 403 paroles directly from SHUs in California. The record overall indicates that the vast majority go back in. The recidivism rate of a SHU is about 78 percent . . . This recidivism rate is much higher than a normal recidivism rate from a regular yard-out-into-the-community at 66 percent." (Senator Gloria Romero, Chair, Senate Select Committee on California Correctional System: Hearing, September 15, 2003.)

The final way out, prisoners tell us, is death. This may come from "natural causes" or by suicide. As Kevin Johnson reported in *USA Today*, California, which has the largest state prison system in the nation, saw a total of 41 suicides in 2006. Of those suicides, 69 percent were in solitary confinement cells.¹¹

THE MENTAL ILLNESS FACTOR

"Living behind these walls is a nightmare that never goes away. Many prisoners behind these walls are going crazy in record numbers, and are becoming more violent than they have ever been in their lives." (California SHU Prisoner)

It is a well-established fact that long-term isolation is detrimental to mental health. "Empirical research on solitary and supermax-like confinement has consistently

¹¹ Op. cit., Johnson.

and unequivocally documented the harmful consequences of living in these kinds of environments.” Studies undertaken over four decades corroborate such an assertion.¹²

As noted in a briefing paper by Human Rights Watch (HRW), “Prisoners subjected to prolonged isolation may experience depression, despair, anxiety, rage, claustrophobia, hallucinations, problems with impulse control, and an impaired

Solitary confinement can cause a specific kind of psychiatric syndrome, which in its worst stages can lead to agitation, hallucinations, and a confused psychotic state.

ability to think, concentrate, or remember” (HRW, 2000).
Harvard University Medical School psychiatrist Dr. Stuart Grassian has found, and courts have recognized, that solitary confinement can cause a specific kind of psychiatric

syndrome, which in its worst stages can lead to agitation, hallucinations, and a confused psychotic state. Symptoms can include random violence, self-mutilation, and suicidal behavior (Kerness 1996, p. 3).

In a series of interviews Craig Haney conducted with 100 randomly selected Pelican Bay supermax prisoners, he found very high levels of psychological and emotional trauma and of psychopathology.

Although Haney did not specifically test his subjects for all the factors identified by Grassian as determining “SHU Syndrome,” there were

12 Haney, Craig, “Mental Health Issues in Long-Term Solitary and ‘Supermax’ Confinement,” in *Crime and Delinquency*, Vol. 49, No. 1, January 2003, pp. 124-156.

Table 2: Symptoms of Psychological and Emotional Trauma

Symptom	% Presence Among Pelican Bay SHU Prisoners
Anxiety, nervousness	91
Headaches	88
Lethargy, chronic tiredness	84
Trouble sleeping	84
Impending nervous breakdown	70
Perspiring hands	68
Loss of appetite	68
Dizziness	56
Nightmares	55
Hands trembling	51
Tingling sensation	19
Fainting	17

Table 3: Psychopathological Effects of Prolonged Isolation

Symptom	% Presence Among Pelican Bay SHU Prisoners
Ruminations	88
Irrational anger	88
Oversensitivity to stimuli	86
Confused thought process	84
Social withdrawal	83
Chronic depression	77
Emotional flatness	73
Mood, emotional swings	71
Overall deterioration	67
Talking to self	63
Violent fantasies	61
Perceptual distortions	44
Hallucinations	41
Suicidal thoughts	27

high percentages of prisoners suffering from similar symptoms: heightened anxiety (91%), hyperresponsivity to external stimuli (86%), wide mood swings (71%), aggressive fantasies (61%), perceptual distortions (44%), and hallucinations

(41%). An astounding 56 percent of the sample experienced at least five of these symptoms.

Perhaps even more disturbing is the percentage of prisoners with pre-existing mental conditions who are assigned to these units. Two studies, one conducted by Hodgins and Cote in 1991, and another by Lowell, Cloyes, Allen and Rhodes in 2000, found that 29 percent of prisoners in long-term segregation units had at least one predefined indication of serious mental illness.¹³

There are a number of explanations for this. One is inadequate mental health treatment coupled with a tendency for mentally ill prisoners to act out and break rules, especially when they have not been adequately treated for their mental disorder. Once in segregation, the conditions cause their mental disorders to worsen, leading to longer SHU terms and more acting out.

In California, valiant efforts have been made to challenge the treatment and conditions of mentally ill prisoners, including those in SHU and Administrative Segregation. The *Madrid v. Gomez* case forced Pelican Bay State Prison to remove all mentally ill prisoners from its SHU and screen incoming prisoners to prevent their assignment to SHU.¹⁴ Two new units, called Psychiatric Services Units (PSUs), were established for these psychiatric prisoners and two levels of services establish minimum standards for their treatment. In Correctional Clinical Case Management (3CMS), prisoners are locked down in traditional housing units (not sensory deprivation units), a psychiatric technician checks on them daily, and they have some form of contact with a professional once a week—either a one-on-one session or a group session. Perhaps one of the eeriest features of these professional contacts is that the patient is usually removed from his/her cell (handcuffed,

shackled and searched) and placed in a cage (called a “treatment module”), for the duration of the “treatment” session. In group sessions, the professional conducts his/her “therapy” in a room full of cages.

The other psychiatric designation is “enhanced” out patient services or EOPs. These prisoners receive what is available to 3CMFs, and are allowed out of their cells for ten hours a week in addition to the time they need for showers and exercise. They are not double celled at Pelican Bay, but may be double celled at other facilities. Prisoners held in Administrative Segregation, primarily at Corcoran, Tehachapi, and the Central California Women’s Facility, are usually double celled.

For a prisoner in one of these cells, it is truly an experience of being buried alive.

The *Madrid v. Gomez* decision only brought relief to prisoners at Pelican Bay because that prison’s architecture, indeed the way it was intentionally designed, prohibits any visual contact with the outside world. The only window a prisoner has is a narrow piece of glass on their doors, which looks out on a corridor or a wall. For a prisoner in one of these cells, it is truly an experience of being buried alive.

The other SHUs in the state were the subject of the *Coleman v. Wilson* case, which applies to mental health services throughout the system.¹⁵ A special master monitors implementation of the court’s remedial plan and reports back to the court. Plaintiff’s attorneys continue to do their own monitoring and work closely with the special master. One reported, “The Department has no sense of urgency that housing people in lock down

¹³ IBID, p. 142.

¹⁴ The case is reported at 889 F.Supp. 1146 (N.D. Cal. 1995).

¹⁵ The case is reported at 912 F.Supp. 1282 (E.D. Cal. 1995).

forever is a problem.”¹⁶ California had 43 suicides in its facilities in 2007, 70 percent of which were in segregation units. The number was similar in 2006. It amounts to 26 out of 100,000, twice the national average for prison suicides.

TAKING IT TO THE COURTS

One of the most effective ways of challenging conditions inside prisons is to bring a civil suit. In California, the Prison Law Office and others have won repeatedly in the courts when they have challenged medical care, mental health care, excessive force, and conditions in juvenile facilities. The following cases have directly challenged conditions in solitary confinement:

Coleman v. Wilson — The court found that the entire mental health system operated by the California Department of Corrections (now CDCR) was unconstitutional and that prison officials were deliberately indifferent to the needs of mentally ill inmates. All 33 institutions in the CDCR are presently being monitored by a court-appointed special master to evaluate the CDCR's compliance with the court's order.

Madrid v. Gomez — Conditions at California's "super-maximum" Pelican Bay State Prison have been subject to injunctions aimed at eliminating excessive force, improving health care and removing prisoners with mental illness from the Security Housing Unit. As a result of this case, Pelican Bay is currently being monitored by a court-appointed special master.

Farrell v. Hickman — In January 2005, California officials and the Prison Law Office reached an agreement on a schedule for reforming the juvenile justice system and creating a system that is rehabilitative and provides a therapeutic

environment for juvenile offenders. Under pressure from the Prison Law Office, California correctional officials agreed to bring in national experts to help design a new state rehabilitative juvenile justice system. The agreement is set forth in a "stipulation" filed on December 1, 2005.¹⁷

In April 2006, a team of national experts released a comprehensive report describing the problems in California's juvenile justice facilities as the result of a "broken" system that is both overly-expensive and ineffective. The report recommended various reforms, including a new management structure, and urged the state to focus efforts on reducing the level of violence in its youth facilities.¹⁸

While each of these cases is significant in establishing a record and determining legal findings, implementation has been extremely difficult. Again and again a "special master" was appointed, or, in the case of prison healthcare, the entire health system was placed into federal receivership. Reports were written. Attorneys return to court to exert more pressure, and very little changed. In February, 2008, Judge Thelton Henderson, who had placed the prison health system into receivership, intervened to replace the receiver with a new person, in hopes that progress would be made. This seems to point to the difficulties faced both by outside and inside "experts" to remedy abuses and put humane systems in place. The prison movement is deeply indebted to the attorneys who fight these cases and to the courageous judges who uphold prisoner rights. However, the California Department of Corrections and Rehabilitation seems consistently to be able to undermine the decisions and delay compliance.¹⁹

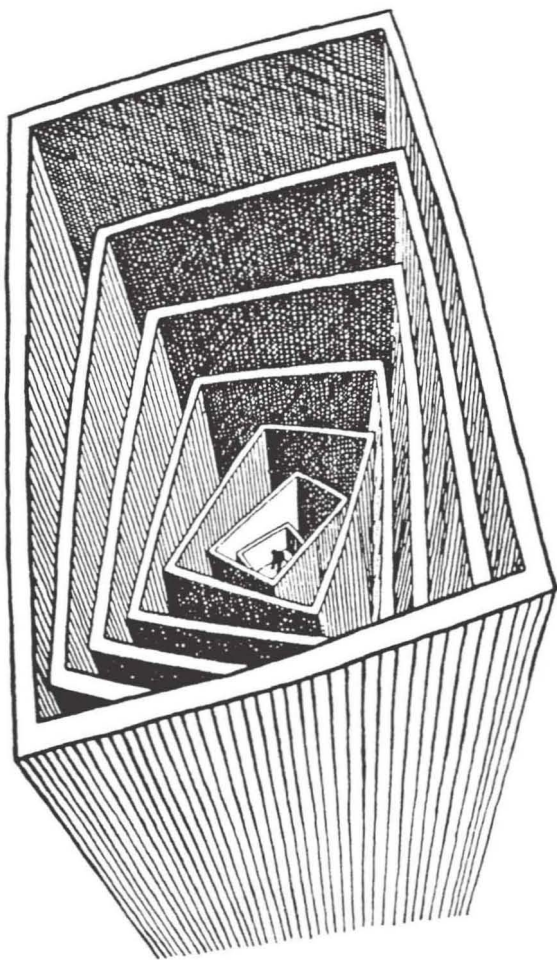
17 "Stipulation Regarding California Youth Authority Remedial Efforts," www.prisonlaw.com/pdfs/CYASTIP.pdf.

18 "Safety and Welfare Plan: Implementing Reform in California," www.prisonlaw.com/pdfs/DJJSafetyPlan.pdf.

19 For further information on these and other cases, see www.prisonlaw.com.

16 Telephone conversation with Jane Kahn, April, 2008.

Plata v. Davis — In the largest ever prison class action lawsuit, prisoners alleged that California officials inflicted cruel and unusual punishment by being deliberately indifferent to serious medical needs. A settlement agreement filed in 2002 requires the California Department of Corrections to completely overhaul its medical care policies and procedures, and to pump significant resources into the prisons to ensure timely access to adequate care. The settlement allows the state to phase in the new policies and procedures over several years and gives an independent medical panel the responsibility to audit the state's progress.



YOUTH AND ISOLATION

Background: Children Are Different

“Our society recognizes that juveniles differ from adults in their decision-making capacities as reflected in laws regarding voting, driving, access to alcoholic beverages, consent to treatment, and contracting. . . Adolescents are cognitively and emotionally less mature than adults. They are less able than adults to consider the consequences of their behavior, they are easily swayed by peers, and they may show poor judgment. We also know that teens who have been victims of abuse or have witnessed violence may show increased levels of emotional arousal and a tendency to overreact to perceived threats. Victims of child abuse and neglect are overrepresented among incarcerated juveniles. . . Studies of this population consistently demonstrate a high incidence of mental disorders, serious brain injuries, substance abuse, and learning disabilities, which may predispose to aggressive or violent behaviors. In many instances, these juveniles have not received adequate diagnostic assessments or interventions.”
—American Academy of Child and Adolescent Psychiatry, 2000.

In *Buried Alive: Solitary Confinement in Arizona's Prisons and Jails*, a 2007 report for the American Friends Service Committee, Isaacs and Lowen describe the dangers of incarceration, and especially the effects of isolation of juveniles. Recent scientific research reveals that children's brains develop more slowly than previously believed. Using the relatively new technology of magnetic resonance imaging (MRI), scientists have discovered that the frontal lobe of the brain—the area that governs emotions—undergoes far more change during adolescence than in any other stage of life. Furthermore, the frontal lobe is the last part of the brain to develop. According to the Juvenile Justice Committee of the American Bar Association, “The evidence

is now strong that the brain does not cease to mature until the early 20s in those relevant parts that govern impulsivity, judgment, planning for the future, foresight of consequences, and other characteristics that make people morally culpable..." These findings make a strong case not only for re-examination of law enforcement and sentencing policies affecting juveniles, but also for scrutiny of juvenile conditions of confinement, particularly the use of isolation.

The Justice Policy Institute's 2006 review, *Dangers of Detention*, found a host of negative correlations

There is no research to support a theoretical foundation for the use of seclusion with children.

with the experience of detention, including indications that it can exacerbate mental illness. The report cites one study showing that for one-third of incarcerated youth diagnosed with depression, the

onset of depression occurred after they began their incarceration. Even more troubling was the finding that poor mental health and conditions of confinement work together to make it more likely that incarcerated teens will engage in self-harm and/or suicide. The Justice Policy Institute found that "incarcerated youth experience from *double to four times* the suicide rate of youth in the community."

There is an overwhelming consensus in national correctional standards and among juvenile justice experts and social scientists that isolation is an ineffective therapeutic tool that is harmful to youth and normally unnecessary for the effective management of juvenile facilities (Zimmerman, 2005). As Linda Finke's 2001 research on use of seclusion for youth in mental institutions concludes, "The experience actually may cause additional trauma and harm. There is no research

to support a theoretical foundation for the use of seclusion with children."

United Nations Guidelines for the Prevention of Juvenile Delinquency prohibit holding children in "closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned."

The most damning indictment of the practice of isolating juveniles is found in the National Center on Institutions and Alternatives 2004 report on the correlation between isolation and youth suicide in detention facilities. The research was conducted by the U.S. Justice Department's Office of Juvenile Justice and Delinquency Prevention (OJJDP), and represents the first national survey of juvenile suicide while in confinement. The findings are alarming. Out of 110 juvenile suicides occurring in juvenile correctional and detention facilities between 1995 and 1999, 50 percent of victims were on room confinement status at the time of death, and 62 percent had a history of room confinement (National Center, 2003).²⁰

California and Juveniles

The term for lock down in California's youth prisons (the Division of Juvenile Justice of the CDCR) is "special management program." According to the office of the Inspector General, "Wards in the special management program generally spend the majority of their time in their rooms except for time allowed for showers and exercise. The other types of restricted programs for wards generally occur by temporarily restricting wards to their already-assigned rooms. Specifically, wards assigned to any living unit can be placed on temporary detention whereby they are isolated in their rooms for short periods

20 Isaacs, Caroline, and Matthew Lowen, *Buried Alive: Solitary Confinement in Arizona's Prisons and Jails*, Tucson, AZ: American Friends Service Committee, 2007, p. 44.

of time, generally a day or two, if they pose a danger to themselves or others or are themselves endangered.” However, the same report also states “Department policy also stipulates that the average length of assignment to the special management program to be 60 to 90 days.”

The Inspector General said, “alternatively, an entire living unit or facility may be placed on *administrative lockdown* due to an operational emergency when it becomes necessary to restrict a large number of wards.” Each of these conditions (the individual or group restriction) results in a restricted program for a ward.²¹

Conditions in the so-called step down program involves wards eating meals in their rooms, being prevented from attending school in a classroom away from the unit, and only being allowed out of their room for up to two hours a day for recreation. Dan Macallair, director of the Center for Juvenile and Criminal Justice described the education program as “sliding a lesson through the food slot.”

Juvenile Demographics

Of the California youth facilities, the largest is Heman G. Stark Youth Correctional Facility (Stark), with 1,200 “wards.” Preston Youth Correctional Facility (Preston) is second with 720, and N.A. Chaderjian Youth Correctional Facility (Chad) is third, listed as having 600 wards.²²

The Department of Juvenile Justice (DJJ) reports the following racial breakdowns for its entire juvenile population: 51% Hispanic; 31% African American; 13% White; 2% Asian; 1% Filipino; 1% Native American; 1% Pacific Islander; 1% “other.” The total population of youth in state

detention is 2,647, down from 10,000 just a few years ago. Though we do not have a separate racial breakdown for people in the special management program, an overall population of 87 percent people of color is shocking enough.

The largest number of youth in long-term lock down were being held at Stark and Preston. Chad reported just 14 youth in “temporary detention,” which carried no actual time limit, and another 25 in some kind of transitional placement, which appeared to carry many of the same restrictions as the locked down units.

A youth at Stark described the counseling program:

“They’re workbooks. Here. I’ll show you.’ Bringing me his ‘counseling’ workbook, Matt showed me the blanks he’d filled in. ‘Your officer just flips through to make sure something’s written there, and marks it off that you got counseling.’”²³

Stark has instituted a policy of segregating almost all “Northern Hispanics” in the special management program, even though current behavioral indicators would not call for such placement. Stark staff felt that it was unsafe to house alleged Northern and Southern gang members together in General Population.²⁴ The result is that all wards are under severe restriction.

Classification

There is no uniform classification system across institutions in the Department of Juvenile Justice. Although a Disciplinary Decision-Making System (DDMS) is being drafted, it was not completed as

21 Office of Inspector General Report, Stark, February 2007.

22 “Data compiled by the Office of Public and Employee Communications,” www.cdcr.ca.gov/Reports_Research/summarys.html.

23 Waheed, Sumayyah, “Youth prison tours: Heman G. Stark,” www.ellabakercenter.org, July 11, 2007.

24 Krisberg, Barry, “DJJ Progress on the Standards and Criteria of the Safety and Welfare Remedial Plan,” September 7, 2007, <http://www.prisonlaw.com/pdfs/DJJ5thSMReportAppAB.pdf>, 5th SMReport of Special Master. Appendix A.

of this writing. Based on site visits documented by Barry Krisberg of the National Council on Crime and Delinquency, Preston and Stark each had their

There is no uniform classification system across institutions in the Department of Juvenile Justice.

own classification procedure. At Preston there was a point system that added or subtracted points from an initial classification made by DDMS criteria. Stark did not use a formal point system, but seems to assign wards

to units based on staff observations. As indicated in the Office of the Inspector General’s report on High Risk policies, “The special review also found that the facility’s transitional program (at Chad), intended to help wards transition from its special management program, is essentially an extension of the special management program without formal policies that provide critical protections for such a restricted program.”²⁵

Though there are a number of requirements about how long a ward can be locked down, and how many educational services they should receive, there is no enforcement mechanism to ensure these guidelines are followed. The California Education Code mandates a minimum of four hours a day of instruction for high school students. Section 7219 of the Institutions and Camps Branch Manual requires education services by the second day after placement in restricted housing. However, when the inspector general selected six dates for examination in 2006, he could find evidence that only two of the wards, of the 323 held in restricted housing, had received instruction of any kind on those dates—less than 1 percent (OIG Stark High Risk, February 2007). One teacher for the special management program

provided one hour of instruction per student per day. According to the Inspector General, at that rate a ward would work with the teacher once every eighteen days. At Chad, the estimate was that youth receive approximately 40 percent of the educational services required by law.

Conditions

In 2007, Barry Krisberg of the National Council on Crime and Delinquency reported the following: “I made a physical inspection of restricted units at Stark, Preston, and Chad and generally found that the conditions in these units were deplorable. The cells were dimly lighted, there was graffiti throughout the units, sanitation conditions were below standards of decency in the rooms and in the hallways, and plumbing in the cells worked intermittently or poorly... The general living conditions were, in my opinion, oppressive and punitive—certainly not conducive to treatment and rehabilitation.”

“Outside recreation for most youths in restricted housing is still limited to barren cage-like structures with virtually no recreational equipment. It is difficult to see how this programming meets the legal standard for large muscle exercise.”²⁶

25 Op cit. OIG, Stark, February 2007.

26 Op cit. Krisberg.

HUMAN RIGHTS PROTOCOLS

One of the places that torture in prisons, and other human rights abuses, can be addressed is through United Nations conventions and covenants to which the U.S. is a party. There are three U.N. treaties that apply to prison conditions: The International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. The AFSC has been documenting human rights abuses in prisons for many years, and forwarded the documentation to appropriate U.N. committees, considering U.S. compliance with these agreements.

Bonnie Kerness of the Newark AFSC office explained the work of these committees in a presentation at Emory University in February, 2008:

“The conditions and practices that the imprisoned testify to are in violation of the Universal Declaration of Human Rights, the United Nations Convention Against Torture, and the United Nations Convention on the Elimination of All Forms of Racial Discrimination. U.S. prison practices also violate dozens of other international treaties and fit the United Nations definition of genocide.

Article 1 of the UN Convention Against Torture prohibits policies and practices that ‘constitute cruel, inhuman or degrading punishment.’ The history of international attention to these issues is compelling. In 1995, the UN Human Rights Committee stated that conditions in certain U.S. maximum security prisons were incompatible with international standards. In 1996, the UN Special Rapporteur on Torture reported on cruel, inhuman and degrading treatment in U.S. supermax prisons. In 1998, the Special Rapporteur on Violence Against Women

took testimony in California on the ill treatment of women in U.S. prisons. In 2000 the United Nations Committee on Torture roundly condemned the U.S. for its treatment of prisoners, citing supermax prisons and the use of torture devices, as well as the practice of jailing youth with adults. The use of stun belts and restraints chairs were also cited as violating the U.N. Convention against Torture. In May of 2006, the same committee concluded that the U.S. should ‘review the regimen imposed on detainees in supermaximum prisons, in particular, the practice of prolonged isolation.’

“In 1998 and again in 2005, the AFSC contributed to the World Organization Against Torture and Prison Reform International’s Shadow Reports on the Status of Compliance by the U.S. Government with the International Convention Against Torture. We found that the U.S. was not meeting its obligations under that treaty. Given what has happened at Abu Ghraib and Guantanamo and given that the entire Executive Branch of the U.S. government seems to sanction torture, it becomes imperative that we as advocates give more long-term attention to what is happening to people in U.S. prisons.”²⁷

In 2007, AFSC worked closely with the U.S. Human Rights Network to produce a shadow report on the use of solitary confinement in U.S. prisons as a violation of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Documenting violations of these covenants and conventions is one strategy the STOPMAX campaign will be using to impact policy change with regard to the use of, and conditions in, long-term lock down.

²⁷ Kerness, Bonnie, presentation at Emory University, February 2008, on behalf of AFSC.

RECOMMENDATIONS

As stated in AFSC's Arizona report on supermax, *Buried Alive: Solitary Confinement in Arizona's Prisons and Jails*, **"It is the position of the American Friends Service Committee that long-term solitary confinement is ineffective and inappropriate in all circumstances."** To that end, the AFSC is embarking on a national STOPMAX campaign, which is being launched in May, 2008. However, understanding that significant social change takes time, and that violence within prisons is a serious problem, we propose a series of interim steps that should be taken as soon as possible to reduce the use of isolation, and to increase oversight and due process.

1. Wherever solitary confinement is used in government-run institutions, or in privately-owned prisons, an independent body must be in place to monitor conditions and report publicly about its findings. Such an office must be adequately staffed, have full access to the institution, its records, and the prisoners held there, and the means to publish its reports and make them widely available.
2. No juvenile should be held in solitary confinement conditions for longer than twenty-four hours.
3. No person, of any age, with a history of or symptoms of mental illness should be held in solitary confinement.
4. All persons placed in isolation, either for disciplinary reasons or for administrative control, must be given due process in a timely manner: to be represented by counsel, to see the evidence against them, to have proceedings recorded, and to have their cases reviewed every six months.
5. Prisoners held in protective custody should have access to the full range of programming, privileges, visits and other activities available to people in the general prison population.
6. Transitional units should be established to enable prisoners to come out of isolation and prepare for life on the mainline or life on the outside. All prisoners with release dates within six months must be given transitional services for no less than three months prior to release. Such services must include psychiatric components, pre-release counseling and planning, socialization and life skills training. Under no circumstances should these services be behavior modification programs that impose additional punishments. Neither should they be provided primarily through workbook lessons assigned to individuals in isolation.



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