LOCKDOWN NEW YORK:

DISCIPLINARY CONFINEMENT IN NEW YORK STATE PRISONS

A Report by the Correctional Association of New York

October 2003

The Correctional Association
October 2003

TABLE OF CONTENTS

EXECUTIVE SUMMARY

The findings from Correctional Association visits to nearly every disciplinary housing unit in New York – 49 visits to 26 lockdown units – reveal a disturbing picture characterized by emotional and physical distress, a reliance on warehousing instead of treatment, high rates of mental illness, suicide and self-mutilation, low staff moral and unsafe working conditions for prison guards and administrative staff.

New York prisons confine nearly 5,000 inmates, 7.6% of the total inmate population, in highly restrictive disciplinary lockdown units for 23 to 24 hours per day. Minimal human contact occurs inside lockdown facilities where there is little natural light and virtually nothing for inmates to do. The enforced idleness and reduced environmental stimulation can last for months or years and lead to severe psychological debilitation.

Some of the troubling realities of disciplinary lockdown are:

- By state estimate, nearly a quarter of the inmates in disciplinary lockdown system-wide are on the mental health caseload. In some units that we visited, over half of the inmates in solitary confinement were identified as seriously mentally ill.

- Between 1998 and 2001, over half of the system's 48 suicides occurred in 23-hour lockdown, although inmates in these units comprise less than 10% of the general population. Of the 258 inmates in our research sample, 44% reported previous suicide attempts while in prison and 20% had prior admissions to the psychiatric hospital.

- Department figures show that incidents of self-harm rose by 66% between 1995 and 2000. Of the 258 inmates we interviewed over one-third reported committing acts of self-mutilation while in prison. Unthinkable to outside observers, the Department issues misbehavior reports to inmates who attempt to kill or harm themselves.

- Although there are nearly 1,000 New York inmates with mental illness in disciplinary segregation, the prison system's sole psychiatric hospital, Central New York Psychiatric Center (CNYPC), has space for only about 200 inmate-patients. The CNYPC has not increased its capacity since it opened in 1980, although the prisoner population has tripled over that time.

- To punish inmates in lockdown who continue to violate rules, corrections officials utilize increasingly punitive "deprivation orders," most commonly time loss of recreation, loss of showers, and the use of mechanical restraints (handcuffs and waist chain) during recreation. The most severe punishment is the restricted diet,

or "the loaf" where inmates are fed a dense, binding, unpalatable one-pound loaf of bread and a side portion of raw cabbage three times a day for seven days straight, followed by two days off.

- While the Department claims that deprivation orders are used infrequently and for only the most incorrigible inmates, nearly half (49%) of the inmates in our sample received "deprivation orders" for violating rules while in lockdown. Forty-one percent reported receiving four or more.

- Between 1997 and 2000, New York built ten high-tech, total lockdown facilities, representing the most dramatic expansion of high-security housing in state history. Construction costs alone ran to $238 million.

- If their prison sentence ends before their term in disciplinary confinement, prisoners are released, without any reorientation program, directly from the isolation of a disciplinary housing unit to the community.

- Disciplinary confinement often takes a heavy toll on correction officers. Officers in some units are stabbed, spat at, assaulted or "thrown at." Some officers use antidepressants to cope with the stressful and depressing nature of the job.

- New York's lockdown units provide few meaningful programs in which inmates can engage, no jobs to perform, or opportunities for socialization to determine their preparedness for release to general population or society.

The Department *has* demonstrated a capacity for responding positively to the grave problems plaguing NYS's lockdown units:

- Some disciplinary units, notably those at Greene, Shawangunk, Sing Sing, Sullivan, and Woodbourne Correctional Facilities, are markedly calm and quiet and commended by officers and inmates. Common to these cellblocks are the small number of inmates, an experienced and attentive correctional staff, regular rounds by mental health personnel, and sufficient coordination between correction officers and counselors.

- Some lockdown units offer a "behavior modification" system, known as Progressive Inmate Movement System (PIMS), that enables prisoners to earn time cuts in disciplinary confinement.

- Along with the Office of Mental Health, the Department has developed a small program for inmates with mental illness that provides them with mental health services and enables them to earn their way out of lockdown. Known as STP for Special Treatment Program, the initiative was piloted at Attica, recently expanded to Five Points, and serves a total of 45 inmates.

PRINCIPAL RECOMMENDATIONS

There is great potential for misuse of authority, violation of policies, and abuse of both inmates and staff in lockdown facilities. Lacking extraordinarily careful measures to mitigate against these factors, these units can become breeding grounds for cruel behavior and callous indifference to human suffering. The Governor and other state policymakers should take bold action to address the grave deficiencies that characterize conditions inside these prisons within New York's prison system.

- **Create a permanent, independent oversight board with the authority to monitor conditions in 23-hour lockdown units.** The review board should conduct monitoring visits, make unannounced inspections, investigate complaints, evaluate compliance with directives and report findings and recommendations annually to the governor, the legislature and the public.

- **Regularly review the inmate death reports published by the New York State Commission of Correction and implement its recommendations.** These carefully considered recommendations often go unheeded, because no entity requires their implementation. The Governor's Director of Criminal Justice should review the Commission's reports and hold prison and mental health officials accountable for making necessary reforms.

- **Provide appropriate housing for mentally ill prisoners** by enacting the bill introduced by Assemblymember Jeffrion Aubry (D-Queens), Chair of the Corrections Committee, that prohibits confining inmates with serious mental illness in 23-hour lockdown units and provides the resources for creating correctional psychiatric facilities.

- **Institute a suicide prevention program in every 23-hour lockdown unit, including keeplock.** A properly administered suicide prevention program could mean the difference between life and death for inmates in 23-hour lockdown.

- **End practices of mechanically restraining inmates during recreation, of punishing inmates with a restricted diet of bread and raw cabbage, and of penalizing inmates for acts of self-harm.**

- **Provide meaningful programs to inmates in lockdown.** The state can increase public and prison safety by requiring inmates to participate in group activity prior to their release. No inmate should be released directly from lockdown to general population or society before participating in congregate activities that help prepare them, and determine their readiness, for release.

- **Restrict the use of disciplinary lockdown to inmates who commit serious offenses.** The National Institute of Corrections of the U.S. Department of Justice asserts that lockdown facilities are inappropriate for the "nuisance inmate."

DOCS should limit the use of long-term disciplinary lockdown to the most serious disciplinary cases.

- **Avoid double-celling of lockdown inmates to the extent practicable**, including using cell-blocks in the new high-tech prisons for drug treatment programs or other purposes, and take all necessary steps to ensure that inmates with a capacity for violent behavior are not double-celled.

- **Allocate the resources needed to expand the capacity of CNYPC** so that the prison system can better accommodate the treatment needs of severely mentally ill inmates.

- **Increase funding for the Special Treatment Program that provides therapeutic services for mentally ill inmates in lockdown units.** The 45-bed capacity of this well-regarded program is clearly insufficient to meet the needs of the nearly 1,000 inmates in disciplinary lockdown on the mental health caseload.

- **Appoint a task force of seasoned correction officers to identify ways to improve the safety, morale and training of security staff** in 23-hour lockdown units. The recommendations of this task force should be reported to the governor and legislature and translated into programs and policies.

II. INTRODUCTION

Imagine, for a moment, the following scenario: With your hands cuffed in front of you and attached to a chain around your waist, a correction officer leads you down a dimly lit cellblock and stops in front of an empty cell. He instructs you to step inside and then locks the thick metal door behind you. He tells you to place your hands through the "feed-up" slot in the door so that he can remove the restraints without risk of injury or escape.

You turn and survey your surroundings: a cell, the size of an average bathroom, with concrete walls and a concrete floor. Iron bars at the back face a corridor, across from which are tall windows that allow filtered rays to penetrate your cell—your only source of natural light. A few feet from the metal bed, a stainless steel toilet and sink are affixed to the floor. You sit on the thin mattress and wonder how you'll live in this barren cage.

Until a book cart comes by—maybe the next day, maybe not—all you have to read is the Special Housing Unit manual telling you what to expect while you are there: no phone calls, no programs, no group interaction with other inmates and no out-of-cell movement except an hour a day of legally-mandated recreation. If you decide to go to recreation, you will be "mechanically restrained" with handcuffs and a waist chain as you are escorted to an empty outdoor cage. If you have a history of violence, you will remain shackled during recreation. Even if the temperature outside is below freezing, you will not be allowed to wear gloves or a hat. There is no equipment in the rec pen, not even a ball.

At dinnertime, a rubber-gloved hand pushes a meal tray through the feed-up slot in your door. You cannot see the face of the person serving your food. As evening turns to night, you lie down to sleep but cannot. The shouts of men in neighboring cells ricochet down the corridors and bounce off the concrete walls, creating an eerie din. From the wild ranting of a particular inmate, you can tell that he has lost his mind.

Hours later, you wonder what time it is but have no way of knowing since watches are not allowed and no clocks are in sight. The newspaper the correction officer gives you the next day is a week old. Your only contact with the outside world is through a single earphone you plug into a wall jack connecting you to a few radio stations chosen by the facility. It occurs to you how little control you have left over your world: You cannot choose what you hear, what you read, what you see. Your surroundings have been reduced to shadows and steel, your life to a nightmarish monotony. You will remain inside this prison within prison for over a year, along with several thousand other inmates in the custody of the New York State Department of Correctional Services (DOCS).

There is increasing awareness today of America's grim incarceration statistics: Over two million citizens are behind bars, more than in any other country in the world. More than six million people are under some form of correctional supervision, including prison, parole or probation. America constitutes just 5% of the world's population but houses 25% of its prisoners. "Never before have so many Americans—roughly 14 million—faced the likelihood of imprisonment at some point in their lives," reported *Newsweek's* November 13, 2000 cover story, "America's Prison Generation," shortly after the United States surpassed Russia as the country with the highest rate of incarceration.

A trend less known to people outside the criminal justice community is the proliferation of ultra-maximum-security "lockdown" units, highly secure prisons within prisons in which inmates are confined 23 hours a day. In these stark facilities, all movement is monitored by video surveillance and assisted by electronic door systems. Special alarms, cameras and security devices are everywhere. Living conditions include either solitary confinement or double-celling, where two men are forced to share limited living space around the clock. Few programs are provided to inmates in ultra-max prisons. Simply enduring the extraordinary degree of idleness is one of the most difficult aspects of life in disciplinary lockdown, as there is virtually nothing for prisoners to *do*.

Like animals in a cage, inmates are "cell-fed" through feed-up slots in thick metal doors. Most facilities initially limit showers to just three a week. The number of phone calls inmates can make is sharply restricted. Visits are conducted behind Plexiglas or mesh-wire barriers and limited to one visit a week. Whenever prisoners leave their cells, they are mechanically restrained with handcuffs and a waist chain, and leg irons if they are considered seriously violent or escape-prone. Some inmates remain handcuffed throughout their visits (thus, they cannot embrace or hold hands with their visitors) and sometimes during their one hour of recreation.

The psychological effects of punitive isolation are well documented in the literature. Dr. Stuart Grassian, a psychiatrist who has evaluated the effects of solitary confinement on over 100 prisoners in various state and federal prisons, including New York facilities, has concluded that conditions in lockdown can cause such symptoms as perceptual distortions and hallucinations, massive free-floating anxiety, acute confusional states, delusional ideas and violent or self-destructive outbursts, hyper-responsivity to external stimuli, difficulties with thinking, concentration and memory, overt paranoia, and panic attacks.[1]

Designed for inmates who violate prison rules or whom correction officials deem threats to security, lockdown units are attractive because they are easier to manage and, in some jurisdictions, cheaper to operate than regular prisons. With no congregate activity

[1] Declaration of Dr. Stuart Grassian, *Eng v. Coughlin* (80-CV-385S, undated).

and little out-of-cell movement, contact between inmates and staff is minimal. "All prisons should be made this way," a deputy superintendent told us on a visit to New York's newest lockdown unit, Upstate Correctional Facility. Lockdown units are also attractive to politicians seeking to burnish their tough-on-crime credentials. As the National Institute of Corrections notes, "The fact that such facilities often are politically and publicly attractive . . . also has had a role in their increase nationwide. They have become political symbols of how 'tough' a jurisdiction has become."[2]

In 1984, only one prison in the United States, the federal penitentiary in Marion, Illinois, was a total lockdown facility. After a series of catastrophes at what was then a general population prison—numerous escape attempts, serious assaults on inmates and staff, and the killing of two correction officers (on the same day in October 1983)—a state of emergency was declared. The prison was placed on permanent lockdown status, which continues today. Since then, the majority of states have built total lockdown facilities, which together hold more than 20,000 prisoners, or approximately 2% of the nation's total prison population.[3]

New York has joined this trend. Between 1997 and 2000, the state built ten high-tech, total lockdown facilities, representing the most dramatic expansion of high-security housing in state history. New York opened its first total lockdown facility at Southport, in 1991. Together, these modern, freestanding facilities can house up to 3,788 inmates, though they have operated under capacity since they opened. In some jurisdictions, these facilities would be called "supermaxes," but New York correction officials resist that term. Either way, conditions are basically the same: 23-hour lockdown, enforced idleness and extreme social isolation.

Total lockdown units are among the most isolated institutions in the country. Few outsiders are permitted access; little public oversight exists. The inmates housed in these prisons within prisons tend to be the most marginalized individuals in the correctional landscape—a hidden population isolated not only from society but from other inmates in the system. Some are illiterate; many are cognitively impaired or mentally ill. In the New York State prison system, DOCS' figures show that nearly a quarter (23%) of inmates in disciplinary lockdown units system-wide are on the mental health caseload, a proportion that independent correctional experts describe as alarmingly high.

Not surprisingly, little is known about inmates in total lockdown units, how their experience in the darkest recesses of the prison system affects them or how they endure. Criminologist Norval Morris, who has written extensively about supermax confinement, has noted: "We know little from research on who is sent to these units, why and for how

---

[2] National Institute of Corrections. (1999). *SupermaxPrisons: Overview and General Considerations.* Longmont, CO: U.S. Department of Justice, National Institute of Corrections.

[3] King, R. D. (1999). The rise and rise of supermax: An American solution in search of a problem? *Punishment and Society, 1*, 163-186.

long; or the effects of supermax confinement on people with mental illness."[4] This report attempts to address these and other questions by examining New York's dramatic expansion of disciplinary lockdown in recent years and how the conditions of confinement affect the nearly 5,000 prisoners inside.

III. BACKGROUND

Overview of Disciplinary Lockdown in New York State

Currently, approximately 5,000 inmates are confined in 23-hour disciplinary lockdown in New York.[5] Following are the three types of lockdown:

1. Keeplock. Inmates on keeplock are either confined to their cells or housed in a separate cellblock in the prison. While keeplock is considered the least restrictive form of disciplinary housing because inmates are permitted more personal property and the stays tend to be shorter, keeplock is still governed by the same Department directive (4933) that applies to inmates in Special Housing Units.

2. Special Housing Units. Special Housing Units (SHUs) are designated cellblocks or freestanding buildings in most maximum-security and some medium-security prisons. The majority of SHUs are located in old-style maximum-security prisons (Attica, Auburn, Clinton, Elmira, Great Meadow, Green Haven and Sing Sing), where cells tend to be dank and dimly lit, as the only natural light comes from windows across a corridor. Most SHU cells have bars on the front or back of the cell; others are far more isolating, with three concrete walls and a thick metal door.

3. High-Tech Lockdown Facilities. Representing the newest form of disciplinary confinement, these modern-day lockdown units are electronically-controlled, freestanding facilities with state-of-the-art video and audio surveillance equipment. New York has 11 such facilities: Southport and Upstate, which constitute entire prisons, and nine "S-Blocks" on the grounds of other facilities. Combined, they have a total capacity for housing 3,700 inmates:

- **700 beds at Southport Correctional Facility**, the state's first total lockdown prison, which opened in 1991. Inmates are confined in single cells with bars; recreation takes place in outdoor cages (one inmate per cage) on facility grounds. For the first 30 days, all inmates remain

[4] Kurki, L. and Morris, N. (2001). The purposes, practices and problems of supermax prisons. *Crime and Justice, 28*, 385-424.

[5] DOCS figures on April 14, 2003 show a total of 4,981 inmates in disciplinary lockdown. On that date, there were 1,529 inmates in keeplock, 432 in Special Housing Units, and 3,020 in high-tech total lockdown facilities.

shackled during their one hour of recreation. Southport is known by inmates and staff as an "end of the line" prison.

- **1,800 beds in S-Blocks**, nine freestanding facilities with a capacity to hold 200 prisoners each. In cells measuring 105 square feet, two men are confined together 24 hours a day behind a thick metal door with a small window. Recreation is provided in small outdoor cages attached to the back of the cells. DOCS opened all nine S-Blocks between 1998 and 2000 on the grounds of the following medium-security correctional facilities: Cayuga, Collins, Fishkill, Gouverneur, Greene, Lakeview, Marcy, Mid-State and Orleans.

- **1,200 beds at Upstate Correctional Facility**, opened in 1999, with a capacity for 1,500 inmates, housed two men to a cell. Of these inmates, 1,200 are in disciplinary lockdown status; 300 are on general confinement status and work in the prison. As in the S-Blocks, recreation cages are affixed to the outside wall of the cells.

Methodology

Our research was prompted not only by the dramatic expansion of disciplinary lockdown units in recent years, but by a growing number of letters and phone calls from inmates, family members and attorneys suggesting serious problems. Most frequent claims included the unfair nature of disciplinary hearings, the trivial charges that result in disciplinary confinement, the length of sentences, forced partnerships with dangerous cellmates, and inadequate access to medical and mental health services. A significant area of concern is the high number of inmates with mental illness confined in disciplinary lockdown. Department figures reveal that 23% of inmates in disciplinary lockdown units system-wide are on the mental health caseload.

To explore these and other issues, we conducted an extensive review of the literature, obtained data and policy information from DOCS and the Office of Mental Health (the state agency responsible for mental health care in the prisons), and reviewed inmate death reports produced by the New York State Commission of Correction (a government oversight agency). We interviewed current and retired New York State correction officers, superintendents and mental health clinicians; inmate family members, ex-offenders and attorneys; and psychiatric, legal and correctional experts throughout the country.

The bulk of our findings are based on visits to lockdown units throughout the state and structured interviews with inmates housed in them. In preparation for this report, we conducted 258 inmate interviews[6] and made 49 site visits to lockdown units in the following 26 prisons:

[6] During site visits conducted between 1998 and 2001, we interviewed inmates using a checklist of questions. In 2002, we designed a more detailed, structured survey to collect data about inmates'

Correctional Facility/Lockdown Area Toured	Year(s) Visited
1. Arthur Kill: SHU	2002
2. Attica: SHU and Keeplock	1998, 2000, 2002
3. Auburn: SHU	1999, 2001
4. Clinton: SHU and Keeplock	2001, 2002
5. Collins: S-Block	2000
6. Coxsackie: SHU and Keeplock	1998, 2002
7. Downstate: SHU	1998, 2002
8. Eastern: SHU	1999, 2002
9. Elmira: SHU; Keeplock	1998, 2001, 2002
10. Five Points: SHU	2002
11. Fishkill: S-Block and SHU	1998, 2001
12. Great Meadow: SHU	2000, 2002
13. Green Haven: SHU	1999, 2001, 2002, 2003
14. Greene: S-Block	1998, 2002
15. Marcy: S-Block	1998
16. Mid-State: S-Block and SHU	2002
17. Orleans: S-Block	1998
18. Otisville: SHU	2002
19. Shawangunk: SHU	2000, 2003
20. Sing Sing: SHU	2000, 2003
21. Southport: All cellblocks	2001, 2002, 2002
22. Sullivan: SHU	1998, 2002
23. Upstate: All cellblocks	2001, 2002
24. Washington: SHU	2000
25. Wende: SHU	1998, 2000, 2002
26. Woodbourne: SHU	2003

Visits were conducted by members of the Correctional Association's Prison Visiting Committee, which includes staff and board members, lawyers, psychiatrists, psychologists, physicians, correctional experts, a retired corrections captain, ex-offenders and concerned citizens. Committee members toured the cellblocks, interviewed prisoners, reviewed logbooks and spoke to correction officers on the units.

Limitations of the research. As with all research projects, particularly those conducted in highly restrictive environments such as prison, there were certain limitations with the research. Interviews with inmates, while conducted out of earshot but within eyesight of correctional staff, were not entirely confidential, a factor that may have influenced their responses. In addition, survey data were self-reported. The possibility exists that inmates over-reported or under-reported information, thinking that in our

---

perceptions of and experiences in lockdown. Containing approximately 40 questions, the survey was designed with input from correctional and mental health professionals and former inmates. We administered the survey to 258 inmates in disciplinary lockdown in the following 12 prisons: Attica, Clinton, Elmira, Five Points, Great Meadow, Green Haven, Sing Sing, Southport, Sullivan, Wende, Woodbourne and Upstate. Data were coded and analyzed using SPSS (Statistical Package for the Social Sciences). A tabulation of the survey data is presented on page 19.

capacity as outsiders we might have influence over their custodial status. We took steps to mitigate these factors by informing inmates of the nature and scope of the research, emphasizing that we had no influence over their status within the correctional system, and assuring them that the information they provided was confidential. The vast majority of inmates were eager to participate and spoke with surprising candor, even when discussing highly sensitive or incriminating information such as their criminal activity in prison, psychiatric history, and victimization by other inmates. Finally, due to time and resource constraints, we did not elaborate on the issues specific to female inmates in 23-hour lockdown units. Although women represent a very small proportion of the total lockdown population, their experiences warrant separate and deeper analysis than we were able to provide.

Despite these limitations, however, we believe that the broad scope of the study, extending to nearly every lockdown unit in the state, and the large number of inmates surveyed, increase the validity of our findings and the conclusions we have drawn from them.

Factors Driving Construction

Ten of New York's eleven lockdown facilities were constructed between 1997 and 2000, representing the largest expansion of disciplinary housing in state history. The first such facility to open was the 200-bed S-Block on the grounds of Marcy Correctional Facility in central New York. Over the next three years, eight more S-Blocks were built.

In 1999, New York opened the 1,500-bed Upstate Correctional Facility in Malone, New York, a small town about fifteen miles south of the Canadian border. Upstate was New York's 70th prison and the third correctional facility built in Malone, where inmates now constitute more than a third of the town's population.

Unlike the establishment of lockdown in Marion, Illinois, the build-up of lockdown units in New York was not precipitated by a catastrophic event. Rather, the construction was driven mainly by two factors: the need for more maximum-security cell space and the availability of federal cash incentives in return for ending parole.

Need for Additional Maximum-Security Cell Space

As the inmate population doubled from approximately 35,000 to 70,000 between the mid-1980s and mid-1990s—consisting mainly of nonviolent, medium-security drug offenders—DOCS handled the increase by building more prisons and doubling the housing capacity in medium-security prisons through double bunking. Because the SHUs in medium-security facilities were not expanded, however, inmates who violated rules serious enough to warrant disciplinary confinement were transferred to cells in maximum-security prisons and placed on keeplock status. However, many of the maximum-security prisons were already filled to capacity.

As a result, these maximum-security prisons were unable to accept incoming inmates from county jails (known as "state readies"), who were backing up in record numbers. The number of state-readies reached an all-time high of 4,425 in 1999. The state was sued and ordered to pay $36 million in fees to the counties for delays in accepting custody of these offenders.

With the construction of the S-Blocks and Upstate, DOCS was able to move inmates from cells in maximum-security prisons to the new lockdown facilities, thus freeing up maximum-security cell space for incoming, general confinement prisoners.

Incentive of Federal Funds for Prison Construction

The 1994 Violent Crime Control and Law Enforcement Act contained a provision that awarded states cash incentives to build new prisons if they changed their laws so that people convicted of violent offenses would serve at least 85% of their sentences.[7] Known as VOI-TIS (Violent Offender Incarceration-Truth-in-Sentencing) funds, these grants made it financially attractive for states to simultaneously build more prisons and end parole. In 1995, New York abolished parole for individuals convicted of a second violent felony. In 1998, it ended parole for individuals convicted of their first violent crime. In return, New York received nearly $200 million of VOI-TIS funds between 1996 and 2000, all of which was spent on the construction of high-tech lockdown facilities.[8]

In defending the build-up of disciplinary lockdown units, DOCS Commissioner Glenn Goord stated in the May 2000 *DOCS Today*, a corrections publication: "Housing disruptive inmates in SHUs has had an immediate and positive effect on the system. . . . The rates of inmate-on-staff and inmate-on-inmate assaults are at a 15-year low." The Commissioner did not mention that in 1996, the year *before* the build-up of disciplinary housing began, the rate of inmate-on-staff assaults was the lowest it had been in a decade (13 assaults on staff per 1,000 inmates in 1996, compared to 23 per 1,000 in 1986). By the year 2000, the assault rate had dropped further to 10 per 1,000. Thus, it appears inaccurate to claim that the build-up of disciplinary lockdown units was responsible for the decline, when the decline was well underway before the units were opened.

[7] *See* Paula M. Ditton and Doris James Wilson, *Truth in Sentencing in State Prisons*, NCJ 170032 Bureau of Justice Statistics (Washington, D.C.: U.S. Dept. of Justice Jan. 1999).

[8] Correctional Association interview with Richard McDonald, Program Analyst, Corrections Committee, New York State Assembly. (November 25, 2002).

Costs to Build and Operate

> "It's frightening to think what the economy around here would be like were it not for the two prisons we now have, and the new one that we're getting."
>
> —Branch Manager, Marine Midland Bank, Malone, NY

Economic considerations also played a role in the expansion of 23-hour lockdown facilities. In garnering support for new prison construction, New York correction officials and upstate legislators touted the economic payoffs of prisons for rural communities plagued by high unemployment and industry decline.[9] "Besides addressing the Department's need for more maximum-security space, Upstate Correctional Facility provides a substantial economic boost for the North Country," reported Commissioner Goord in *DOCS Today*. "In all, the new prison will mean 422 new jobs and an annual payroll of almost $13 million."

Despite potential economic gains, building high-tech lockdown prisons cost taxpayers dearly. The massive Upstate Correctional Facility cost approximately $130 million to construct, or about $173,333 per double-occupancy cell ($86, 666 per bed), exclusive of interest. The nine, 100-cell S-Blocks cost a total of $108 million to build, or about $120,000 per cell ($60,000 per bed).

Since Upstate and the S-Blocks opened, they have rarely operated at capacity. Of Upstate's 1,200 disciplinary lockdown beds, 308 were empty as of April 2003. At $86,666 per bed, about $27 million worth of cell space sat vacant on that date. Figures for the S-Blocks on the same date show 372 vacant beds, or $22 million worth of cell space. Combined, that is nearly $50 million worth of vacant cell space.

Although these ultra-secure facilities are expensive to build, they can be cheaper to run than regular prisons. Minimal services and inmate movement mean fewer staff costs. In New York, the cost of housing an inmate in a lockdown facility is *half* that of housing an inmate in a general confinement prison—about $16,000[10] per year compared

---

[9] Despite these claims, a recent study conducted by The Sentencing Project, a national organization that monitors criminal justice policies, showed that prisons are not the economic panacea for rural communities that policymakers predicted them to be. An analysis of 20-year trends in Upstate New York counties where 38 prisons have been built since 1982 found no positive effects for the counties as measured either by employment or per capita income. "While new prisons clearly provide jobs, these jobs are not necessarily taken by local residents, who may lack necessary skills or experience," concluded Marc Mauer, assistant director of the Sentencing Project. "Using prison building as an economic growth strategy appears to have far less potential for success than previously believed." (King, R. S., Mauer, M. & Huling, T. *Big Prisons, Small Towns: Prison Economics in Rural America*. Washington, DC: The Sentencing Project. February 2003)

[10] This figure was derived as follows: The S-Blocks, each of which costs between $2.4 and $3.3 million per year to operate, have a combined total operation cost of $25 million annually. These figures include "total personnel service" and "total non-personnel service" expenses. Upstate costs $30.6 million annually to operate. The combined annual operating costs for the S-Blocks and Upstate are approximately $55 million which, divided by 3,300 inmates, is $16,666 per inmate.

to $32,000. Thus, there is an economic inducement to housing inmates in high-tech lockdown facilities.

At the end of 2002, DOCS closed the SHUs in nine medium-security prisons, eliminating 124 lockdown beds from the system. The closing of these SHUs was not necessarily a positive development, however, because the units gave superintendents the option of confining an inmate for a short period of time—up to a month, for example—in the SHU in the prisoner's "home" facility. Now, these superintendents have few options other than sending rule-violating inmates to the remote Upstate Correctional Facility near the Canadian border or to one of the S-Blocks, where they will be double-celled and required to serve a minimum sentence of 90 days.

The Disciplinary Process

Inmates are sent to disciplinary lockdown for violating prison rules. Every inmate entering the system is given a rulebook containing over 100 rules. Each of these rules is assigned a "Tier" rating of I, II or III. Many rules have multiple ratings. The ratings determine the severity of the rule violation, the type of hearing the inmate will be afforded, and the range of punishment the inmate can receive if found guilty. The least serious offenses are assigned a Tier I rating and result in a "violation hearing," which is conducted by a sergeant. More serious offenses receive a Tier II rating and result in a "disciplinary hearing" conducted by a lieutenant. A Tier III rating is assigned to the most serious misbehaviors and results in a "superintendent's hearing."

According to inmates, a problem with this system is that many rule violations have multiple ratings. The rating is determined based on the opinion of a correction officer, whose personal feelings about an inmate or pressure from fellow correction officers can influence his decision.

The disciplinary hearing must begin within seven days of the offense and be completed within fourteen days. The inmate can call other prisoners and certain correction or civilian staff as witnesses and receive limited assistance from designated prison employees in preparing his defense. However, inmates are not entitled to outside counsel in disciplinary hearings.

After a disposition is issued, the inmate has 30 days to appeal the decision to Central Office. Central Office issues a time cut or reverses the disposition in over 20% of the approximately 27,000 Tier III rulings handed down annually. On one hand, the fact that more than one-fifth of all rulings are ultimately modified or reversed shows that the appeal process works. On the other, it may indicate problems with the hearing process itself, such as hearing officers' methods for establishing guilt and determining appropriate levels of punishment.

Inmates and prisoner attorneys frequently assert that the hearings are little more than "kangaroo courts," where inmates are essentially powerless to obtain a finding of innocence because cases often involve the word of a convicted felon against that of a correction officer. An inmate from Clinton Correctional Facility described the following experience:

> Several years ago, I was charged with assaulting and fighting with another prisoner. At my Tier III hearing, the inmate I was accused of assaulting and fighting with came to my hearing and testified that he didn't even know me, and that I did not assault him or fight with him. This inmate was under no obligation to appear at my hearing and could have refused if he wanted to. Three correction officers who were present in the cellblock when the alleged assault/fight occurred, all testified that they did not see the incident. There were no other witnesses. In keeping with facility policy, I had also been taken to the clinic after the incident, where my body was checked for marks indicative of fighting. I had none. I pled not guilty to the charges against me.
>
> Nevertheless, the hearing officer found me guilty, saying that he 'felt' I did it and that he 'felt' I had intimidated the victim witness. He sentenced me to 210 days keeplock with loss of all privileges. The evidence that I presented, including statements from correction officers, the 'victim' and the absence of injuries, should have carried more weight than the hearing officer's 'feelings.' [11]

Central Office ultimately reversed the decision. However, the inmate was held in keeplock with loss of privileges for 72 days before the decision was overturned—an irreversible injustice and a situation that all inmates awaiting reversals experience. The inmate concluded his letter with an impassioned call for reform:

> It is to society's benefit to correct the injustices and unfairness that takes place in these hearings. If a person is to learn to respect, honor and obey the laws that govern society, then he must see that those laws are fair, equal and effective. The kangaroo court system of discipline in New York State prisons teaches those incarcerated that rules, regulations and laws are not to be trusted. Kangaroo court justice breeds contempt for the law. It contributes to the building of tension, anger and frustration behind prison walls. It contributes to the recidivism rate. And it shames our society, our government, and indeed, our humanity. The lessons learned in prison will be those that are carried back out to the streets.

[11] Letter to The Correctional Association, dated February 23, 2002

Charges that Result in Disciplinary Lockdown

"Prison staff have always had to deal with uncooperative inmates. They continuously test the limits, frequently break minor rules, and consume an inordinate amount of staff time. As comforting as it may be to an institution to be rid of such persons, the use of costly high-custody beds for this population is probably not only inefficient, but arguably overkill. These facilities are inappropriate for the nuisance inmate."

— U.S. Department of Justice, National Institute of Corrections, *Supermax Prisons: Overview and General Considerations*, 1999

In the past, only Tier III tickets landed an inmate in disciplinary lockdown. Once Upstate and the S-Blocks were built, the Department allowed them to accept inmates with Tier II violations. When we reviewed the charges of inmates in the S-Block at Greene Correctional Facility during a June 2002 visit, we found that several men were sent there for such low-level violations as smoking and "horseplaying." A hearing officer at a maximum-security prison told us that the superintendent has recently begun to pressure hearing officers to sentence inmates to 90 days in disciplinary confinement in order to meet the minimum requirement for a transfer to Upstate or an S-Block. This practice illustrates the problems observed by criminologists Leena Kurki and Norval Morris:

> Once a supermax is built, there is a tendency to keep it full. Admission criteria typically specify very serious violations . . . but also leave room for much lesser violations (e.g., disruption of orderly operations; gang influences). Broad assignment criteria may well be used to keep supermaxes full rather than providing safeguards against arbitrary and unnecessary admissions, as was their original purpose.[12]

The following chart, based on the most current figures DOCS supplied us, shows the number and type of offenses of inmates housed in disciplinary lockdown on November 16, 2000.[13]

[12] Kurki, L. and Morris, N. The purposes, practices, and problems of supermax prisons. *Crime and Justice, 28*, 385-424.

[13] See Commissioner's policy paper on prison safety and program services, November 2000.

Offenses of Inmates in SHUs and Keeplock

Offense	SHU	Keeplock	Total	Percent (%)
Disturbance/demonstration	952	514	1,466	25
Contraband: drug use	488	323	811	14
Contraband: weapon	357	84	441	8
Assault on inmates	261	25	286	5
Assaults on staff	248	16	264	5
Refusal to obey orders	174	300	474	8
Contraband: drug possession	163	61	224	4
Contraband: other	151	176	327	6
Interfering with employees	148	222	370	6
Fighting	72	177	249	4
Unauthorized organization	62	41	103	2
Sex offenses	50	21	71	1
Penal law offenses	22	2	24	<1
All other offenses	303	342	645	11
Total	3,451	2,304	5,755	100

According to these figures, over 1,000 inmates (nearly one-fifth of the lockdown population) were in disciplinary confinement for drug use or possession, suggesting that drug trafficking remains a serious problem and that more effective drug treatment programs are needed.[14] Whether repeated drug use warrants high-security lockdown is debatable. What seems obvious is that simply locking a drug user in a cell for months at a time is unlikely to curtail future drug use, particularly if the inmate is clinically depressed, using drugs to self-medicate or is otherwise in need of treatment that he will likely not receive in lockdown.

[14] Although inmate participation in drug treatment has increased 102% since 1994 and federally funded RSAT (Residential Substance Abuse Treatment) programs have opened in 16 prisons, waitlists for treatment remain high. At our February 2003 visit to Shawangunk, for example, we learned that over 300 men were on the waitlist for the newly opened RSAT program.

Portrait of Inmates in Disciplinary Lockdown

The following table presents data from survey interviews with 258 inmates in disciplinary lockdown: 126 inmates in Special Housing Units, 44 inmates at Upstate Correctional Facility and 88 inmates at Southport.[15]

	SHU Inmates (n = 126)	Upstate Inmates (n = 44)	Southport Inmates (n = 88)
Length of SHU Sentence (mean)	42 months	37 months	34 months
Median Age	34	33	33
High School Diploma or General Equivalency Degree (GED)	53%	66%	40%
Sent to lockdown for violent charge	60%	62%	62%
Sent to lockdown for nonviolent charge	40%	38%	38%
On the mental health caseload	62%	47%	100%*
Received deprivation order in lockdown	48%	48%	51%
Received 4 or more deprivation orders in lockdown	25%	53%	57%
Put on restricted diet in lockdown	32%	5%	28%
"Never or rarely" go to recreation in lockdown	50%	2%	39%
Engaged in self-harm while in prison	31%	41%	40%
Attempted suicide while in prison	37%	42%	55%
Received ticket for self-harm or suicide attempt while in prison	61%	36%	46%
Prior admission to Central New York Psychiatric Center (CNYPC)	30%	5%	14%

* All of the inmates in the Southport sample were on the mental health caseload.

[15] The sample of SHU inmates (n = 126) is sufficiently large to generalize to the total SHU population in maximum-security prisons. (Probability sampling theory requires a sample size of at least 50 units of analysis and ideally 100 to generalize to the larger population from which the sample was drawn.) The sample of Upstate inmates (n = 44) is insufficiently large to generalize to the total Upstate population or the similarly double-celled S-Blocks. The sample of Southport inmates (n = 88) is a stratified random sample drawn from a list of all 126 inmates on the mental health caseload. It is sufficient in size and randomness to generalize to the total population of inmates on the mental health caseload at Southport.

IV. AREAS OF CONCERN

High Number of Inmates in Disciplinary Lockdown

On April 23, 2003, New York had approximately 5,000 inmates in 23-hour lockdown, or 7.6% of the inmate population. New York's use of disciplinary segregation seems extraordinarily high. According to the latest figures from the Corrections Yearbook, an annual compilation of correctional trends and data, "The largest number of inmates in disciplinary segregation on January 1, 2001 was in New York, which had approximately 5,486." [16] In addition, "New York had the greatest percentage of inmates in disciplinary segregation." At that time, according to the Yearbook, the national average (of the percentage of state prison inmates in disciplinary segregation) was 2.5%.

The high number of segregated inmates in New York suggests a flawed prison management strategy that over-relies on lockdown to control inmate behavior, as well as a possible staffing shortage. In an interview with the Correctional Association, Richard Harcrow, president of the state correction officers' union, said that insufficient staff in the prisons contributes to the high number of inmates in 23-hour lockdown. Harcrow cited the July 2003 stabbing death of an inmate in the yard at Green Haven, a maximum-security prison in Dutchess County, as an example. "With only two correction officers in the yard to oversee up to 400 inmates, there's always potential for serious trouble," he said. "Inmates know they have the upper hand." When the Correctional Association visited Green Haven in June 2003, correction officers reported that there is only one officer in the housing blocks to move some 300 inmates to evening meals and programs, and that insufficient staff leads to delayed services, frustrated inmates and fights. Inmates who engage in fighting are likely to end up in lockdown.

In discussing the association between prison mismanagement, violence and the proliferation of supermax prisons in the United States, British criminologist Roy King has noted:

> The possibility should at least be examined that the reason for the high levels of violence in American prisons may have as much to do with the way in which prisons have been managed and staffed on the cheap, and the fairness and dignity with which prisoners are treated, as it has with the qualities that criminals bring with them into prison. It is at least a plausible hypothesis that the ever more repressive response to violence—of which supermax is but the latest

[16] The Corrections Yearbook is published annually by the Criminal Justice Institute, a not-for-profit agency that conducts research on criminal justice issues and collects data through survey questionnaires sent to state and federal prisons in the U. S. and Canada.

> expression—sets up a vicious circle of intolerance which is doomed to make matters worse.[17]

A New York superintendent who requested anonymity commented: "It's the easy way out. Lockdown units are easier to run because the inmates never leave their cells, but the high level of security and control just isn't necessary for so many inmates." The other problem, he said, "is that all these inmates are getting out. Do we want to turn them into animals before they're released?"

Former Warden John Clark of the federal penitentiary in Marion, Illinois asserts that better screening devices are needed to determine who should be sent to these units. "The warden at one prison might feel that a particular inmate in his facility needs to be moved to a supermax because of his behavior, but someone at a higher level should be screening those cases to provide consistency—that way, you won't have the warden at institution A sending certain individuals to supermaxes, while three other wardens wouldn't see it as appropriate to send the same inmates to them."[18]

Length of Sentences

In determining the length of an inmate's sentence to lockdown, hearing officers are provided with the following guidelines:

- Assault with a weapon/serious injury — 12-24 months
- Assault with weapon/minor or no injury — 6-12 months
- Assault without a weapon/serious injury — 9-18 months
- Assault without a weapon/minor or no injury — 3-9 months
- Group or gang-related assaultive/disruptive behavior — 12-24 months
- Weapon/on person — 6-12 months
- Weapon/in area of responsibility — 3-6 months

Although inmates in New York know the length of their sentences in disciplinary lockdown (inmates in some jurisdictions do not), there is *no limit* to the amount of time to which correction officials can sentence a person to lockdown. If an inmate continues to violate rules while in lockdown, he can accumulate many more months or years in "the hole," as inmates refer to disciplinary confinement. During a visit to Wende Correctional Facility in October 2002, we encountered a seriously mentally ill man who had accumulated a total of *35 years* of sentences to solitary confinement.

While the average sentence length is 5.3 months, according to DOCS, many inmates are actually confined much longer, as this figure does not include the consecutive

[17] King, R.D. (1999). The rise and rise of supermax: An American problem in search of a solution? *Punishment and Society, 1*, 183.

[18] Anderson, G.M. (1999). Supermax prisons. *America, 181*, 18.

sentences correction officials mete out to inmates if they violate rules in lockdown. Of the 258 inmates in our sample, prisoners reported an average cumulative sentence length of 36 months.[19]

Prevalence of Inmates with Serious Mental Illness

> "Insofar as possible, mentally ill inmates should be excluded from extended control facilities. . . . Although some mentally ill offenders are assaultive and require control measures, much of the regime common to extended control facilities may be unnecessary, and even counterproductive, for this population."
>
> —U.S. Department of Justice, National Institute of Corrections, *Supermax Prisons: Overview and General Considerations*, 1999

Mental health services in the New York State prison system are provided by a separate state agency, the Office of Mental Health (OMH). Of New York's 65,600 inmates, 11% (approximately 7,400 inmates) are on the mental health caseload. Their representation in disciplinary lockdown is far higher, however: 23% of inmates in lockdown are on the mental health caseload, about 1,000 individuals.

Living for months or years in isolation can be psychologically damaging to even the most mentally resilient individuals.[20] In *Madrid v. Gomez* (1995), a landmark case involving conditions in California's Pelican Bay supermax prison, Federal District Court Judge Thelton Henderson observed that 23-hour isolation "may press the outer borders of what most humans can psychologically tolerate." Placing mentally ill or psychologically vulnerable people in such conditions "is the equivalent of putting an asthmatic in a place with little air to breathe," he stated.[21]

Research has demonstrated that mentally disordered inmates have greater difficulty conforming to strict correctional regimens than non-mentally ill inmates and are more likely to accumulate infractions and end up in disciplinary confinement.[22]

---

[19] Inmates in SHUs reported a mean SHU sentence of 42 months; inmates in Upstate C.F. reported a mean sentence of 37 months; inmates in Southport reported a mean sentence of 34 months.

[20] *See, e.g.,* Human Rights Watch, *Cold Storage*; Haney, Craig and Mona Lynch, "Regulating Prisons of the Future: A Psychological Analysis of Supermax and Solitary Confinement," *New York University Review of Law & Social Change*, XXIII, no. 4 (1997); *Madrid v. Gomez*, 899 F. Supp. 1146 (N.D. Cal. 1995) (court rules super-maximum security confinement of mentally ill is unconstitutional as cruel and unusual punishment).

[21] *Madrid v. Gomez*, 889 F. Supp. at 1265-66 (N.D. Cal. 1995).

[22] A Bureau of Justice Statistics report found that 62% of state inmates identified as mentally ill had been charged with a rule violation, compared to 52% of inmates not identified as mentally ill. *See* Paula Ditton,

"Offenders who are sent to supermax settings because they have problems adjusting to other prisons disproportionately are persons who have had mental health problems in the past," noted Hans Toch, who conducted an extensive study of the experiences of mentally ill inmates in the New York State prison system.[23] Of the 88 mentally ill inmates we interviewed at Southport, nearly three-quarters (74%) reported previous stays in lockdown for rule violations.

The prisoners who end up in disciplinary lockdown are often the system's most troubled inmates, individuals with both psychiatric and behavioral disorders that require a level of attention and care that the prison system is currently ill-equipped to provide. Commenting on the types of individuals who end up in disciplinary segregation, psychiatrist Dr. Stuart Grassian of Harvard Medical School, one of the country's leading experts on the psychological effects of solitary confinement, observed:

> There is a notion in the popular mind that the people who end up in solitary confinement are the most ruthless kind of James Cagneys of the prison system. In fact, what you often see there is exactly the antithesis: they are very often the wretched of the earth, people who are mentally ill, illiterate, and cognitively impaired, people with neurological difficulties, people who just really can't manage to contain their behavior at times. The prison system tends to respond to this by punishment. Punishment tends to make their conditions worse and they tend to get into these vicious cycles where they continue to commit this disruptive behavior and they continue to go deeper and deeper into the belly of the prison system and get sicker and sicker.[24]

The most disturbing aspect of our site visits was encountering numerous individuals in disciplinary lockdown—particularly in the SHUs in maximum-security prisons—who were actively psychotic, manic, paranoid or seemingly overmedicated. (These observations were confirmed by independent psychiatrists who accompanied us on research visits.) The prevalence of mental illness in lockdown was evidenced by the fact that 62% of the inmates whom we interviewed in the SHUs in maximum-security prisons were on the mental health caseload. Thirty percent of these inmates were so ill that they had previously been hospitalized at Central New York Psychiatric Center (CNYPC), a psychiatric hospital for inmates in need of acute care.

Mental Health and Treatment of Inmates and Probationers, Bureau of Justice Statistics: U.S. Department of Justice, 1999.

[23] Toch, H. (2001). The future of supermax confinement, *The Prison Journal, 81*, 378.

[24] Grassian, S & Friedman, N. (1986). Effects of solitary deprivation in psychiatric seclusion and solitary confinement. *International Journal of Law and Psychiatry, 8*, 49-65.

.

When we visited Wende Correctional Facility in the fall of 2002, two-thirds of the inmates in solitary confinement were on the mental health caseload. At Elmira Correctional Facility, 60% of the SHU inmates were mental health patients. At Southport Correctional Facility, one-fifth of the inmates were on the mental health caseload. Many of the inmates' stories were frighteningly painful. "This is killing me for *real*," an inmate at Southport wrote to us. He has been in 23-lockdown three years and has five more years to serve. In jagged capital letters he wrote:

> I NEED TRUE AND REAL HELP. I HAVE A MENTAL CONDITION THAT I HAVE BEEN SUFFERING FROM SINCE MY CHILDHOOD. I HAVE SCHIZOPHRENIA BUT I DO NOT KNOW IF IT IS GENETIC IN ITS ORIGIN OR DRUG INDUCED. I KNOW A TOXIC DRUG THAT IS EXTRACTED FROM THE PUFFER FISH OR THE GLOBEFISH THAT IS USED TO INDUCE ZOMBISM IN HUMAN BEINGS IN THE WEST INDIES AND AFRICA. I BELIEVE STRONGLY THIS WAS DONE TO ME AT CHILDHOOD. I WANT AND NEED TO ASCERTAIN A CAUSE TO MY MENTAL ILLNESS BECAUSE THE INFORMATION ITSELF CAN TRULY SAVE MY LIFE.

A contributing factor to the high number of mentally ill inmates in disciplinary segregation is the lack of in-patient psychiatric beds. The prison system's sole psychiatric hospital, Central New York Psychiatric Center (CNYPC) in Marcy, New York, has only 206 beds. Despite the near tripling of the inmate population since CNYPC opened in 1980, its capacity has never been expanded. Superintendents and prison mental health staff reported delays and wait lists when trying to transfer psychotic inmates to CNYPC.

Moreover, once inmates are stabilized at CNYPC, they are often returned to 23-lockdown rather than general population to serve out the remainder of their disciplinary sentence. Because they are returned to the same environment that fueled their mental collapse in the first place, they typically decompensate again and within a short period of time. In a cycle that an outside psychiatrist described as a "misery-go-round," the inmate is then returned to CNYPC, stabilized temporarily, and sent back to the SHU, where he decompensates again, and the grim cycle continues. The records of one schizophrenic prisoner revealed twenty admissions to CNYPC since his incarceration began in the late 1970s. He had been housed continuously in lockdown from early 1991 through 2000, according to his attorneys.

Psychiatrist Stuart Grassian was appointed by the court in *Eng v. Goord* to monitor conditions in Attica's SHU. After a site visit in 1999, he commented on this problem:

> The revolving door of decompensation in SHU, leading to brief respite and then return to the toxic SHU environment, continues basically unabated. . . . Mentally ill inmates continue to be housed in SHU even after they have recurrently become floridly ill and out of

> control in that setting. OMH's failure to intervene in this reality—its failure to state that there are individuals incapable of tolerating Attica SHU—pulls OMH staff away from professional integrity, and towards a hostile, cynical attitude towards those inmates.[25]

Psychological Effects of Extended Isolation

A growing body of research confirms the harmful psychological effects of living in near seclusion.[26] Since the late 1980s, numerous court decisions have concurred with research findings. "The record shows, what anyway seems pretty obvious, that isolating a human being from other human beings year after year or even month after month can cause substantial psychological damage, even if the isolation is not total," wrote the judge in *Davenport v. DeRobertis* (1988), a case involving SHU conditions in Illinois prisons.[27] The judge in *Madrid v. Gomez* (1995) wrote that conditions in California's Pelican Bay "cause mentally ill inmates to seriously deteriorate; other inmates who are otherwise able to psychologically cope with normal prison routines may also begin decompensating in SHU." In the words of Judge Justice in *Ruiz v. Johnson* (1999)[28] concerning conditions in 23-lockdown units in Texas:

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

On nearly every site visit and in some lockdown units more than others, we encountered individuals in states of extreme desperation: men weeping in their cells; men who had smeared feces on their bodies or lit their cells on fire; prisoners who cut their own flesh in a form of self-directed violence known as self-mutilation; inmates who rambled incoherently and paced about their cells like caged animals; individuals with paranoid delusions—"The COs are poisoning my food," or "The prison psychologist is drugging me." Other comments include the following:

---

[25] *Eng v. Goord*, Civ 80-CV-385S (WFS). *First Site Visit to the Attica SHU, Report of Dr. Stuart Grassian*, June, 1999. Prisoners' Legal Services of New York and the Prisoners' Rights Project of the Legal Aid Society challenged conditions of confinement in the Attica SHU. A settlement document was entered in 1998 requiring substantial improvements in mental health services and monitoring by an independent evaluator. Subsequent site visits by Dr. Stuart Grassian revealed that care remained inadequate. The settlement agreement was amended, and in January 2001, DOCS and OMH opened the first "Special Treatment Program" at Attica offering more intensive mental health care in SHU.

[26] See Grassian, 1986; Haney, 1993; Human Rights Watch, 1997, 1999; Kupers, 1999; Toch, 2001.

[27] Davenport v. DeRobertis, 844 F.2d 1310, 1313 (7th Cir.), *cert. denied*, (1988).

[28] Ruiz v. Johnson, CIV A. H-78-987. USDC, S.D. Texas.

- "Objects talk to me," said a 26-year-old man at Five Points Correctional Facility. The inmate had been in solitary confinement for 18 months and had another 18 months to serve. "Sometimes the radiator comes alive and tries to attack me. At night I get lonely and the door and the radiator and the shadows come alive and try to get me."

- "I think I see people spying on me at night," said a 33-year-old man at Southport, serving eight years in disciplinary lockdown.

- "From the corner of my eye, I see things. . . people moving," a skittish Elmira inmate, aged 37, said to us through the feed-up slot in the metal door of his cell. Sentenced to 3 ½ years in solitary confinement, he described himself as "a suicidal loner."

- "The COs rape me," said a delusional inmate at Five Points, aged 45. Of the 15 years of his incarceration, he has spent 13 years "in the hole." He showed us his arms, covered with scars from self-mutilation, and a five-inch scar on his neck from when he slashed his own throat in a suicide attempt. "The officers rape me and beat me because I know too much," he said. "I hear voices telling me to kill myself." When asked if he sought mental health counseling, he stated, "No one does nothing. I have no faith in nobody. My mind is constantly on being beaten to death. I've been beaten so much I feel like there's an officer in that shower waiting to press a button to call ten more officers in there to beat me to death."

Other inmates appeared defensive when asked about the effects of isolation—"I am a *strong* individual. They cannot break me!" said a Southport inmate—or minimized their serious psychiatric histories. Inmates who were double-celled (and thus speaking to us in the presence of a cellmate) sometimes spoke with a certain bravado. An illiterate 24-year-old in the S-Block at Mid-State initially joked about how he could "do box time standing on [his] head" and emphasized that he was "not a bug" (inmate slang for a person with mental illness). Sentenced to three months in lockdown for fighting, he reported that he takes psychotropic medication "for nerves" but did not know the name of the medication because he could not read the prescription. He stated that a mental health counselor interviewed him for ten minutes upon admission and asked "the usual silly questions, whether I've tried to hurt myself or have been in a mental hospital." When we asked if he had been hospitalized or tried to hurt himself, he stated, "I have mad thoughts about hurting myself. I tell them that and all they do is increase my medication, but it doesn't do anything for me. I've been admitted to mental hospitals all my life. I stabbed myself twice when I was 13."

Other statements about how lockdown affects inmates mentally or emotionally include the following:

- "When I'm under a lot of stress, my thoughts become very chaotic," said an inmate at Attica, aged 35, serving a one-year SHU sentence. "I have a very hard

time concentrating and remembering what has just been said, and I find it impossible to maintain a solid line of thought. It's like 20 thoughts are all fighting at the same time."

- "See this scar?" asked a highly agitated 22-year-old inmate at Southport, extending his arm through the bars and revealing an eight-inch scar. Stating that he had been "attacked" by correction officers, the inmate added: "I could be dealing with something and I'll hear something and I might get flashbacks. Old memories come and I pace for hours. Sometimes, if I'm upset, I go through temper-tantrums, like today, a CO said something slick to me and I told him, 'You talking about me? Be a man and don't talk shit when I'm in handcuffs.' I get complexes. I get flashbacks of them jumping me."

- "Sometimes I forget even the simplest things and I am always feeling unloved and lost and lonely and no one can understand," said a 32-year-old man at Clinton, where he had been in solitary confinement for over two years and twice attempted suicide.

- "If I have to read something, I have to re-read the same paragraph several times over to understand it. It was never like that before SHU time," said a Southport inmate, aged 25, sentenced to ten years in lockdown.

- "Sometimes the voices tell me to do things, and then I get a ticket for doing them," said a 29-year-old prisoner originally sentenced to two months at Upstate, now serving five years in lockdown at Southport for accumulated disciplinary tickets.

- "Mentally, I think I've lost it. I done things here that I never done before," said another Southport inmate, aged 25, sentenced to ten years in lockdown. "Emotionally, I'm moody, stressful, and arrogant towards people that don't deserve it. Physically, I feel broken at times. I've become a savage, the very thing that Southport breeds."

While a large body of literature attests to the damaging psychological effects of long-term isolation, there is no empirical research that shows the opposite: that long-term segregation produces positive changes in behavior. Notably, nearly three-quarters (74%) of the inmates in our Southport sample had prior stays in disciplinary lockdown. This high return rate to disciplinary housing undermines the notion that lockdown is an effective tool for improving behavior.

Additional Punishments: Deprivation Orders and the Restricted Diet

Deprivation Orders

Correction officials rely on a regimen of increasingly harsh punishments known as "deprivation orders" to discipline inmates who continue to violate rules while in disciplinary lockdown. Because inmates in lockdown have so little to begin with, they are deprived of such basic life staples—which in lockdown units are known as "privileges"—as regular food, showers, recreation and haircuts.

The Department claims that deprivation orders are used sparingly and only in the most extreme cases. Our findings suggest otherwise. Nearly half (49%) of the 258 inmates we surveyed reported receiving deprivation orders while in lockdown. Of these inmates, 41% received four or more deprivation orders during their time in lockdown. With so many deprivation orders being issued, one questions their effectiveness as deterrents.

Restricted Diet

A particularly severe form of punishment imposed on inmates who have lost all privileges is the restricted diet, known by inmates as "the loaf." Consisting mainly of flour, potatoes, carrots and very little fat, the "loaf" is a dense, binding, tasteless one-pound loaf of bread that is served to inmates three times a day, along with a side portion of raw cabbage. After seven consecutive days on the diet, the inmate is given two days off. Although the maximum period for which this diet of bread and cabbage can be imposed is 21 days, attorneys at Prisoners' Legal Services, who filed a lawsuit against DOCS challenging the diet's constitutionality,[29] have identified cases where it was imposed for as many as 56 days. One plaintiff in the lawsuit was fed bread and cabbage for nine months while he was at Southport and lost 65 pounds, according to his lawyer.

Another problem with the restricted diet is that it does not meet federally recognized nutritional standards. Although DOCS asserts that three, one-pound servings of the loaf meet daily nutritional standards, most inmates do not consume three servings a day because it is unpalatable and difficult to digest. Of the 88 Southport inmates in our sample, 28% had been placed on the diet at some time during their stay at Southport. Nearly two-thirds (65%) of these men reported that they "never or rarely" ate three servings a day, citing difficulty to digest it as the primary reason. Southport inmates also reported that correction officers intentionally serve the loaf when it is days old, moldy and stale. Of the 126 SHU inmates in our sample, approximately one-third (32%) had been issued restricted diets. Similar to the Southport inmates, 60% of these men reported that they never or rarely ate three servings a day.

Some inmates on the bread and cabbage diet said that they had been "set up" or singled out by correction officers who had a personal dislike of them. "This one guard

[29] Rodriguez v. McGinnis, et al., 98CV6031 (W.D.N.Y.).

had it out for me," reported a prisoner at Clinton, a maximum-security prison in the town of Dannemora near the Canadian border. "He opened my food slot and threw a cup of coffee on me, then lied and said I threw it on him. It was his word against mine. I got put on the loaf, refused to eat it and ended up in the hospital."

When we visited the SHU at Wende Correctional Facility in October 2002, four of the 30 inmates in lockdown were on restricted diets. Correction officers reported that one man was on the diet for "busting his tray," another for "flooding his cell," and another for "throwing liquid." The fourth man—who was serving a SHU sentence of 35 *years*—was put on the diet because he had "nothing left to lose, all of his privileges have been taken away," said the officers. They reported that he had accumulated "nearly a dozen" tickets since he was transferred from the Attica SHU a month before. When we encountered this prisoner, he was lying on his bed, dazed and listless, staring at the ceiling. Inmates in neighboring cells described him as "totally gone," noting that he rarely showered or went to recreation. He did not move or respond when we attempted to speak to him. Under his bed were decomposed orange peels; the stench from his cell was noxious.

Several cells down from this inmate we spoke with another man on the restricted diet. He told us that he was HIV-positive and that a Department policy prohibits placing HIV-infected inmates on the loaf. The facility quickly corrected its error, but the fact that it happened shows a dangerous lack of oversight.

Finally, the American Correctional Association prohibits using food as punishment[30], and the Federal Bureau of Prisons and numerous states have abolished use of restricted diets. New York, on the other hand, has increased its use of the restricted diet by over 100% in the past five years, from 626 diets in 1997 to 1,356 diets in 2002. While DOCS officials argue that the restricted diet is an effective tool for modifying inmate behavior, if this were the case, its use would have decreased, not doubled, in the past five years.

High Rates of Suicide and Self-Harm

Given the prevalence of inmates with mental illness in disciplinary confinement, the limited treatment they receive and the psychological toll that extended isolation takes on even the most mentally resilient individuals, the high rates of suicide and desperate acts of "self-harm," or "self-mutilation" are not altogether surprising.

[30] According to Standard 4-4320,"Written policy precludes the use of food as a disciplinary measure. Food should not be withheld, nor the standard menu varied, as a disciplinary sanction for an individual inmate." American Correctional Association, *Standards for Adult Correctional Institutions*, 4th Ed. (Lanham, MD: American Correctional Association, 2003).

Suicide

Research shows that disciplinary segregation is correlated with higher rates of suicide. "Perhaps no factor has been more tragically associated with jail and prison suicides than the consistent finding of isolated/segregated housing," wrote psychologist Ronald Bonner in the winter 2000 *Journal of the American Association of Suicidology*. A recent study by the *Poughkeepsie Journal* found that more than half (52%) of prison suicides in New York take place in disciplinary lockdown, though disciplinary lockdown contains less than 10% of the inmate population.[31]

Of the 258 inmates in our sample, 44% reported that they had attempted suicide at least once while in prison. This figure is extraordinary—more akin to what one would expect to find in a mental hospital than a prison.

The state-funded watchdog agency, the Commission of Correction, has criticized DOCS and OMH for years for inadequate treatment of inmates with mental illness. "It is a well-established fact that inmates serving long-term sentences in SHUs are likely to decompensate," concluded Commission of Correction officials in a sharply critical report written after inmate Carlos Diaz hanged himself in his cell at Southport in 2000. Diaz, who had a history of psychiatric problems, committed suicide after a series of misbehavior reports resulted in a sentence of 15 years in solitary confinement. The Commission of Correction expressed "significant concern" at the system's failure to monitor Diaz, who had suffered paranoia and hallucinations for years but who, after entering Southport, was determined not to be in need of mental health services. In September 2002, another Southport inmate, 22-year-old Paul Lagoe, was found hanging in his cell. Lagoe had bi-polar disorder and a history of psychiatric admissions.

When we visited Southport two months before Lagoe's death, one-fifth of the inmates in the prison were on the mental health caseload. Correction officers, nurses and civilian employees told us that the mental health staffing level—two psychologists with a combined caseload of 130 inmates—was insufficient. They stated that a significant number of the inmates were seriously mentally ill and belonged in facilities with more intensive mental health services. Correction officers said that they knew of several inmates who were floridly mentally ill but were not on the OMH caseload.

Their observation supported ours. On three separate visits to Southport during 2001 and 2002, we encountered several individuals who were delusional or manic but who were not on the mental health caseload. "We are getting *mobbed* with MHU [mentally ill inmates]," a correction officer told us on one of the visits. "We had a suicide attempt last week. The inmate was then put in an observation cell in the facility hospital. He then defecated on the floor, picked it up and started to eat it. Sorry to be so graphic, but this is really getting old."

[31] Between 1998 and 2001, 25 of the system's 48 suicides occurred in SHU or keeplock. Pheiffer, M. (2001, December 16). Suicides soar; psychiatric resources lag. *Poughkeepsie Journal.*

Another suicide by a mentally ill inmate in lockdown occurred at Upstate Correctional Facility, where 1,200 inmates are double-celled around-the-clock There, sixty-year-old Enos Lewis, who had a history of mental illness, hanged himself with his shoelaces while his cellmate was sleeping. The death report written by the Commission of Correction criticized DOCS on a number of issues, including the fact that although Mr. Lewis was still alive when he was found on May 1, 2000, he was not taken to the hospital for 45 minutes because the private ambulance service with whom DOCS contracts services did not answer the phone. Security staff finally turned to the local fire department for assistance. The inmate died twenty minutes after arriving at the hospital.

A particularly tragic suicide was that of Jessie McCann, only 17 years old at the time of his death in November 2001. McCann hung himself with a bed sheet at Downstate Correctional Facility after being put in disciplinary lockdown. "Isolated confinement is horrible and stressful for anyone," said Bryce McCann, the teen's uncle. Jesse McCann was placed in disciplinary confinement for infractions that his family said were related to his mental illness. A Commission of Correction investigation of his death noted that McCann reported anxiety attacks when he was locked in his cell. The use of disciplinary confinement "is appalling for someone his age who is struggling with anxiety and depression," Bryce McCann told the *Poughkeepsie Journal*.[32]

According to a study of suicide risk factors in New York State prisons conducted by OMH in 2002, 70% of inmates who committed suicide had a history of mental illness. Most were on the OMH caseload and 40% received "a mental health service" within three days of the suicide. Half had made prior suicide attempts, and 40% had prior stays in psychiatric hospitals. Triggers included the death of a loved one or the disruption of a close personal relationship, a conflict with other inmates, physical illness, or denial of parole.

The study's findings have important implications for inmates in disciplinary lockdown, where the majority of suicides take place. That 70% of inmates who commit suicide are on the mental health caseload, as are a significant number of inmates in disciplinary lockdown, suggests that disciplinary lockdown *itself* is a suicide risk factor and that inmates in these units should be monitored much more intensely.

Self-Harm

Another indication of the pathology bred in total lockdown units in New York is the high rate of self-mutilation, a form of self-directed violence that typically involves cutting or slashing one's wrists, arms or abdomen, or burning, biting or otherwise mutilating one's flesh. Clinicians say that people engage in self-mutilation to alleviate overwhelming stress or to counteract "psychological numbness." An inmate in solitary confinement at Great Meadow told us that he had ground his head in glass and showed us the scar. "I do this in order to feel," he said. A persistent self-cutter at Wende explained, "I cut myself and the bad comes out."

[32] Pheiffer, M. (2003, June 29). Mental health care faulted in six prison deaths. *Poughkeepsie Journal.*

Department figures show that incidents of self-harm rose by 66% between 1995 and 2000. Of the 258 inmates we interviewed, one-third reported committing acts of self-mutilation while in prison.

Unthinkable to outside observers, the Department issues misbehavior reports to inmates who attempt to kill or harm themselves, purportedly to discourage malingering. The act of "inflicting self-harm" is an official violation of DOCS policy. To punish individuals in such desperate straits can only be described as cruel and misguided.

Impact on Correction Officers

> "The difficulty of working day-to-day in an environment that is a mixture of repetitive routine, unscheduled incidents, and physical/personal challenges requires that the staff be uniquely adaptable to working in an abnormal setting with persons who present inordinate adjustment and management problems."
>
> — U.S. Department of Justice, National Institute of Corrections, *Supermax Prisons: Overview and General Considerations*, 1999

Lockdown units can be among the most stressful places to work in any correctional system. According to the National Institute of Corrections, the "very stressful environment is created by much of the workday being extremely routine while emergencies can occur instantaneously, staff being challenged verbally and/or physically by inmates, and so much emphasis on security and control."[33] Moreover, the isolated location of disciplinary lockdown and inhospitable working conditions in some units increase the job-related stress.

It is worthy of note that some SHU officers in maximum-security prisons (such as Woodbourne, Sing Sing and Shawangunk) reported that they preferred being away from the chaos of general population and found it easier to work in a highly structured environment. It became apparent in our interviews with correction officers that the SHU officers with the highest levels of job satisfaction tended to work in units that were smaller in size (housing less than 50 inmates) and with the fewest number of inmates with mental illness in the unit.

As expressed by staff we met on virtually all our visits, correction officers' main concerns were that they receive minimal if any specialized training to manage SHU inmates, have few resources to handle inmates with mental illness, and receive little support from the Department's central office and from the facility administration for the traumatic events they experience in these units, such as suicide attempts and cell extractions. Nowhere were these problems more pronounced than at Southport Correctional Facility.

---

[33] U.S. Department of Justice, 1999. *Supermax Prisons: Overview and General Considerations.* Longmont, CO: National Institute of Corrections.

Southport is a high-tech, freestanding total lockdown unit housing some 700 inmates in solitary confinement. It does not have the requisite mental health resources to house inmates with serious psychiatric disorders. In March 2001, the Elmira *Star-Gazette* reported threats to officer safety after three incidents of inmates throwing urine and feces over a five-day period.[34] Officers lamented the system's lack of proactive measures to ensure their safety. The regional union representative told the *Gazette*: "Only in instances where staff are hurt does the state look at making changes. This might have been prevented if they had listened to our concerns the first time." He added, "Our input is continually ignored by the state."

When we visited Southport in April 2001, the level of chaos was striking. As we walked through the cellblock where the most obstreperous inmates were housed, some of whom had Plexiglas shields over their cells because they were known as "throwers," bedlam ensued. Inmates began shouting and banging on their bars, yelling, "Talk to me, please come over here. . . . I need help." At times the noise level was so extreme that we had to terminate interviews.

Correction officers at Southport reported that the work is "degrading" and "humiliating." Several had stories of being stabbed, spat at, assaulted, or "thrown at." One man had twice been put on prophylactic HIV medications after exposure to blood or feces. Many officers, they said, take anti-depressants to cope with the stressful and depressing nature of the job.

When we returned to Southport in May 2002, staff reported that conditions were "out of control," and that "the biggest problem at Southport" was that "so many of the inmates are mentally ill and shouldn't be there." Two psychologists share a caseload of approximately 130 inmates. Officers said that they knew of inmates who manifested obvious signs of mental illness but who were not on the OMH caseload. One correction officer recounted a situation where mental health staff ignored two referrals from security personnel, and the dire consequences that resulted after the referred inmate, clearly mentally disturbed, had a violent episode in which he bit two officers and spat blood another officer's face.

Because the inmate had never been tested for HIV—and, not surprisingly, refused to be tested when subsequently asked—the officers were put on prophylactic medication for six months. The side effects of this medication include extreme nausea, vomiting and headaches. Sexual intercourse is discouraged. The correction officer summed up the situation as follows:

> So now you've got three COs on the cocktail [HIV medication]. They can't have sex with their wives, and one is still out on sick leave. You've got an inmate with a new court case, maybe years added to his sentence, plus hospital costs and probably weeks of workers' comp. Meanwhile, the whole reason this happened is because the

[34] Costello, M. (2001, March 29). Prison staff seek safer environment. *Star-Gazette*.

inmate is nuts and never should've been sent here. But according to OMH, he's not mentally ill at all.

Another problem, according to correction officers, is insufficient security staff. At Southport, there is only one correction officer to oversee 168 inmates on two different floors during the evening and night shifts, from 3:30 p.m. until 7:30 a.m. "It's an accident waiting to happen," said a Southport correction officer. "The correction officer's post is actually in the security console. So what happens if an inmate hangs up or has a heart attack? The officer's supposed to leave the console unmanned?"

Dangerous Double-Celling Arrangements

The New York State prison system has 3,000 beds in high-tech, *double-celled* total lockdown facilities: 1,200 at Upstate Correctional Facility and 1,800 in the nine S-Blocks located on the grounds of medium-security prisons. In these units, each prisoner lives with another man 24 hours a day in a 105-square-foot cell (the size of a large bathroom) behind a two-inch thick steel door. Each cell contains two beds, a desk, shower, sink and toilet. Standing in the middle of a cell, a prisoner can touch both the bunk bed and the wall.

Living in such close quarters can quickly become intolerable, as prisoners sleep, eat, shower, and use the toilet within a few feet of each other. Many men complain bitterly about this forced cohabitation and lack of privacy. The toilets, for example, are in open view, with no barriers or screens for privacy. The showers lack curtains, because correction officials say inmates might use them to kill themselves, strangle a cellmate, or conceal themselves during count time. "Recreation" consists of one hour per day in an empty cage attached to the outside of the cell. At about 55 square feet, it is just large enough to do jumping jacks or pull-ups. Correction officials do not permit balls, weights or any exercise equipment in these rec "pens." Aside from a "cell study" program for inmates who lack a high school diploma, there are no programs. Many inmates spend most of the time sleeping, as there is little natural light, no way to tell time and virtually nothing to do.

Although other states have built similarly stark, high-tech lockdown units in recent years, few have taken New York's approach of double-celling so many high-risk prisoners. One exception used to be California's Pelican Bay state prison, which holds 1,250 inmates in its Special Housing Unit. Several years ago, about half of those prisoners had a cellmate, but the prison reduced that to 20 percent after seven inmates were killed by their cellmates during a 12-month period. Six of the prisoners were strangled; the seventh was severely beaten in the face and head.

At Upstate Correctional Facility, Jose Quintana was brutally murdered by his cellmate in May 2001. "He killed the man with his bare hands," the superintendent said when we visited the prison several months later. "They were arguing about whether to turn off the light." An in-depth investigation by the *Village Voice* revealed that for twenty

minutes, while Quintana's cellmate kicked and pounded his head against the wall, correction officers did little more than watch through the window and wonder what to do. According to the *Voice*, "DOCS is supposed to have an extensive screening process" that "prohibits the double celling of inmates . . . who are highly assaultive, those exhibiting histories of aggressive homosexual behavior, and those with histories of extreme violence." Yet, Quintana was a murderer with a history of attacking other prisoners. The man who killed him was serving time for armed robbery.

The case of inmate Arthur Fletcher represents another stark example of double-celling mismanagement. According to the Commission of Correction, Fletcher's "negative mental health history" did not prevent him from being housed in the Mid-State S-Block in July of 1999. Nor did his protests not to be housed with a cellmate because he "felt in danger." For refusing to be double-celled, he was sentenced to 30 days in a single-celled SHU. "Following his time served," wrote the Commission, "he refused to come out and be placed back in general population." Fletcher was then sentenced to a 90-day SHU term and transferred to Mid-State's S-Block. "In spite of his objections," the Commission states, "he was housed with a cellmate and became increasingly anxious due to ideation that his life was in danger." A subsequent mental health evaluation determined that Fletcher suffered from delusional disorder of the persecutory type and schizophreniform disorder, both major mental disorders. He was transferred to Great Meadow and, a month later, was discovered hanging by a belt in his cell.

Chronic Idleness

A key problem with disciplinary lockdown in New York is that inmates are basically warehoused. Whereas some states use disciplinary confinement as an opportunity for intervention (see the description of Colorado State Penitentiary, p. 46), New York provides no meaningful programs in which inmates can engage, no jobs to perform or opportunities for group interaction to determine their readiness for release to general population or society.

For some inmates, the enforced idleness deepens their feelings of frustration and hostility. For others, particularly those who are housed in highly secluded cells behind thick metal doors, a kind of deadening lethargy sets in. Many inmates reported that they spend much of the time sleeping, as there is nothing to do and no way to tell time. When asked to describe a typical day, an inmate in the S-Block at Fishkill said he wakes up for breakfast, brushes his teeth, goes back to bed until lunch, and then sleeps until dinner. "I already read the one book I have and I don't go outside because the cages are empty," he said. "There is nothing to do here except sleep."

A significant number of prisoners reported that they stopped going to recreation altogether, foregoing their only opportunity to breathe fresh air. Psychiatrists who accompanied us on visits pointed out that refusing recreation often indicates clinical depression, over-medication and/or listlessness brought on by social isolation and reduced stimulation.

Half of the 126 SHU inmates we surveyed, the majority of whom were on the mental health caseload, reported that they "never or rarely" go to recreation. "Why go?" asked an inmate in the Midstate SHU who had not left his cell for 35 days. "They just move you from one cage to another. It stresses me out even more." At Southport, 39% of inmates said they "never or rarely" go to recreation. The most common reason cited was fear of harassment by correction officers, around whom they feel particularly vulnerable while wearing mechanical restraints. Other inmates cited the futility of exercising while mechanically restrained, the lack of exercise equipment in the rec pens and the cold and inclement weather in northern regions, where temperatures can be below freezing six months of the year. Because of "security reasons," inmates are not permitted to wear gloves or hats.

According to the "Capacity Options Plans," a January 1997 report by the New York State Director of Criminal Justice, the S-Blocks and Upstate Correctional Facility were designed to provide "a broad array of programming," including "personalized in-cell study so that inmates can prepare for high school equivalency examinations, participate in bilingual education programs, and take other academic offerings over an in-prison television system in much the same way that thousands of New Yorkers take home study courses." Although the cells were designed with audio/visual hook-up capacity, through which academic and life skills programs could be offered, DOCS has not made use of this technology. The only "program" available to inmates in lockdown is "cell study," in which inmates can participate after 30 days of good behavior. Cell study basically involves working one's way through reading and math curricula assigned by a teacher. Some inmates commented on the futility of participating in cell study when the Department prohibits them from taking the GED exam while in lockdown.

In addition, inmates at some facilities reported that cell study is ineffective because they are left on their own to work through lesson plans. Teachers stop by inmates' cells once a week to collect and return homework and provide tutoring when they can. At most facilities, however, teachers have little time for individual tutoring due to high caseloads.

Allegations of Correction Officer Misconduct

Inmates in many lockdown units reported various forms of correction officer misconduct, ranging from racial epithets and harassment to falsifying charges and outright physical assault. Verifying inmate allegations is difficult, and it is often true that inmates sentenced to disciplinary lockdown are more likely to have behavioral disorders, poor impulse control and cognitive deficits than prisoners in general population. In some cases, force is necessary to restrain volatile inmates, and inmates may allege officer assault in a situation where force was justified. The high frequency of allegations, however, indicate at least the possibility of widespread abuse and clearly warrant attention by the Department.

Allegations about physical abuse in lockdown most often concerned "greeting beatings" that inmates say occur while being escorted to the SHU or upon admission. An inmate from Green Haven wrote:

> Most correction officers are not stupid and will not assault inmates while on camera. What happens is that inmates are assaulted while en route to the SHUs, in hallways or other blind spots in the facility, or upon arrival at the facility in the reception area. These 'beatdowns' are usually the result of someone at the sending facility calling ahead to the officers at the receiving facility saying that a certain inmate is coming down.
>
> The SHUs that are electronically monitored have blind spots directly under the camera. A common ploy is for a CO to push you under the camera and beat the shit out of you. The camera will not record the actual beating, but instead will show some type of disturbance with a bunch of COs milling around just below the camera.

More frequent than allegations of physical assault were reports of harassment. At some lockdown units, inmates reported that correction officers might pass by their cells without feeding them or "forget" to let them out for rec. "They screw with the inmates," said a civilian employee in the grievance office at Southport. "They burn them on [deny them] rec, showers and even meals. One guy, they didn't feed him for a couple of days, just passed by his cell." He said that while most correction officers at Southport treated the inmates decently, there were some who terrorized them and went out of their way to make their lives miserable. Commenting on the facility's superintendent, who was noted to "run the facility with an iron fist," the employee added: "The bad officers know they can get away with anything because it's sanctioned at the top."

Grievances concerning "beat downs" were "not that common," he said. "The problem comes after the officers have tormented the inmate long enough, verbally harassing him, burning him on rec and showers until the inmate just won't come out of his cell. Then they go in with an extraction team, and that's when the force occurs," he said. "This happens about once a week."

Inaccessibility of Staff / Neglected Inmates

A persistent concern of inmates in lockdown units, particularly in the S-Blocks and at Upstate Correctional Facility where they live behind thick metal doors, is lack of access to staff. Aside from shouting or banging on the door—which can earn inmates a misbehavior report—prisoners have no way of contacting staff in case of an emergency.

The thick metal doors that separate inmates from staff, or the location of SHUs in the most isolated areas of the prison, create the very conditions that encourage neglect.

On several site visits, we randomly encountered seriously neglected individuals or were directed to them by concerned officers or inmates in neighboring cells.

- During an August 2002 visit to Upstate, we met a disabled prisoner who had recently been transferred from the wheelchair unit at Green Haven. When he arrived at Upstate, his wheelchair was confiscated "for security reasons," according to a deputy superintendent. Through a window in the cell door, we saw the inmate sprawled on the floor. He had pulled the mattress onto the floor and placed his belongings on the bed frame so that he could reach them. He was in extreme distress and said that he could barely hoist himself onto the toilet. Because of his disability, he had trouble moving his hands and could not write a grievance to medical staff. He had spent several weeks at Upstate living on the floor.

- In the long-term keeplock unit at Clinton, which we visited in August 2002, a correction officer directed us to a foreign-born inmate who had been housed in keeplock for over a year for refusing a TB test. He was lying in bed, stock-still and staring into space. He appeared catatonic. A correction officer reported that the inmate had not spoken to anyone, neither inmates nor staff, in almost a year. He refused recreation and showers and occasionally bathed in his cell. Because he was not a disciplinary problem and refused to speak with mental health staff, he was simply left in this condition.

- Several cells down from this inmate, we came upon a man with full-blown AIDS. He was so ill that he could barely lift his head off of the pillow. He said that he was in extreme pain and "starving" and asked us repeatedly to contact a nurse. He was disoriented but aware that he was dying, in the darkest, dankest cellblock in the prison.

Neglect was cited as a major contributor in the eight inmate deaths in 2001 that were formally investigated by the State Commission of Correction and reported in the *Poughkeepsie Journal.*[35] For example:

- In May 2001, Elmira inmate Shane Maxwell, aged 27, died of "decreased food and water" intake five months after announcing that he was going on a hunger strike. Maxwell had a long history of mental illness and was housed in disciplinary lockdown. The death report noted that staff repeatedly failed to record the inmate's vital signs or monitor his condition. It criticized his discharge from a mental health unit to disciplinary housing, calling such restrictive confinement "inappropriate…given Maxwell's medical and mental health history."

- Six months later, in almost identical circumstances, inmate Harry Figueroa, aged 45, died of "decreased intake of food and water" at Auburn Correctional Facility

[35] Pheiffer, M. (2003, June 29). Mental health care faulted in six prison deaths. *Poughkeepsie Journal.*

following a hunger strike. Figueroa had a history of mental illness and was being held in an observation cell on suicide watch at the time of his death. The official death report stated that correctional and mental health staff should be disciplined "for service inadequacies," noting that "no vital signs or weights were ever taken," and that "the entire process clearly violates accepted standards of practice."

- In another case, Pedro Molina, a Spanish-dominant inmate at Upstate with a history of mental illness, wrote a request for counseling one month before he killed himself. The note, which was written in Spanish and never translated, was given to a newly hired part-time social worker, who had 40 outstanding referrals when he started work at the prison—three weeks after Molina sought counseling. "I don't want to suffer," he wrote before he took his own life. The Commission of Correction report cited an "inexplicable lapse" in care.

- In the SHU at Five Points Correctional Facility, Demario Parks, aged 35, hung himself in a recreation cage attached to his cell. A videotape later showed Parks "climbing the rec pen and attaching the bed sheet to the pen and fashioning a ligature around his neck," the Commission report stated. After his first failed attempt, he tried again and succeeded. The report noted that the facility had no policy for monitoring the video cameras that are trained on inmate recreation pens.

Barriers to Health Care

All clinical consultations are conducted "cell-front" by nurses standing directly outside an inmate's cell. Whether in solitary or double-celled confinement, these encounters are never confidential as cellmates or neighboring inmates can easily overhear conversations. In the S-Blocks and at Upstate, one must speak in a loud voice through a perforated patch in a thick metal door to communicate with the prisoner inside, and then place one's ear against the patch while trying to hear the response, thus making sustained eye contact and confidentiality virtually impossible.

Most inmates reported significant frustration over the lack of privacy during medical and/or mental health screenings, as inmates in neighboring cells and officers on the galleries can easily overhear their conversations. Some inmates cited examples of submitting written requests to see a nurse or mental health counselor, only to be asked—in the presence of a cellmate—about the nature of their ailment.

Moreover, although all lockdown facilities have separate rooms for medical consultations, inmates reported that correction officers are loathe to remove them from their cells unless they are in need of immediate medical attention. A case in point is nurses' routine practice of drawing blood through the food slot in the cell door. Attorneys at the Legal Aid Society expressed alarm at this practice when the S-Blocks were opened, noting that drawing blood is precisely a situation when the private medical rooms should

be used. Concerned about the safety and efficacy of drawing blood in this manner, they consulted with medical experts and stated the following in a letter to the Department's Chief Medical Officer:[36]

> The stance the patient must assume in order to place enough of his arm through the slot—which is positioned in the door at such a height that the patient is required to squat half-way down, leaving him unsupported and in danger of falling or moving in such a way that he could be injured—creates a situation with potentially serious physical risks. In addition, this practice further alienates the prisoner from his own medical care, erodes trust between the prisoner and the medical staff, and is entirely dehumanizing.

In a response to Legal Aid, the chief medical officer stated that the "issue regarding blood draws through the cell door has been addressed at the grievance level. Central Office Review Committee has denied the grievance."[37]

Direct Releases to General Population and Society

Unlike some other states, New York does not routinely transfer inmates in disciplinary confinement to "step-down" facilities or re-orientation programs before their release date to help them re-acclimate to life in society or in general population. Inmates whose prison sentences end while they are in lockdown are released directly to the community, regardless of whether they have lived in isolation for months or years.

At Southport Correctional Facility, inmates deemed too violent to walk the prison corridors unshackled are routinely escorted in handcuffs and waist chains on the day of their release—right out the front gate. A Southport correction officer told us that he sometimes violated policy and escorted inmates unshackled through the corridors on the day of their release. "If the guy's going to stab someone, I'd rather it be me than the first person he bumps into at the Elmira bus station," he said.

[36] Letter dated January 19, 2000, from Kenneth Stevens, Esq., Prisoners' Rights Project to Lester Wright, MD, Chief Medical Officer, DOCS.

[37] Letter dated February 4, 2000, from Lester Wright, MD, Chief Medical Officer, DOCS to Kenneth Stevens, Esq., Prisoners' Rights Project.

V. WELL-RUN UNITS in NEW YORK

In some prisons, there are SHUs that are markedly calm and quiet. Common to these units are an experienced and attentive correctional staff, regular rounds by mental health staff, and sufficient coordination between corrections officers and counselors. The S-Block at Greene Correctional Facility and the SHUs at Shawangunk, Sing Sing, Sullivan and Woodbourne Correctional Facilities stand out as the most exemplary units.

S-Block at Greene Correctional Facility

The S-Block at Greene Correctional Facility, which we visited in June 2002, has the lowest number of UIs ("unusual incidents," which include, for example, assault on staff or inmates, self-harm, and suicide) of the system's nine S-Blocks. The superintendent reported that good leadership in the unit, well-trained staff, and responsive correction officers were contributing factors. The cellblocks were quiet and calm as we toured the facility and interviewed inmates and staff.

Greene's S-Block offers a pre-Residential Substance Abuse Treatment (RSAT) program to a select group of inmates who are serving disciplinary sentences for drug use. Inmates who complete the coursework satisfactorily are transferred to a prison with an RSAT program once they finish their disciplinary sentence. The inmates gave uniformly high marks to the cell-study program and appreciated the helpfulness and upbeat demeanor of the cell study instructor.

SHU at Shawangunk Correctional Facility

The Shawangunk SHU, which we visited in February 2003, was quiet and noticeably tension-free. No one shouted or banged on the bars for attention or raised complaints about treatment from officers or denial of privileges. None of the inmates were on deprivation orders or the restricted diet.

In fact, a number of inmates praised the correction officers and mentioned several officers by name who were particularly humane and responsive to their needs. Such positive reaction to correction officers and generally favorable comments are rare among SHU inmates. One man stated, "I've been to the box at several prisons and this one is by far the best." The logbooks (and inmates) confirmed that mental health counselors make regular rounds, and the grievance officer tours the unit once a week. The librarian recently developed a cell-study/reading enrichment program, whereby inmates earn certificates for writing book reports.

SHU at Sing Sing Correctional Facility

At Sing Sing, which we visited in January 2003, inmates also had high praise for correction officers. Even inmates who were embittered generally about being in lockdown had positive comments for the officers, describing them as "good guys" and very professional. The three officers with whom we spoke impressed us as highly adept at handling a challenging population, many of whom were on the mental health caseload. The superintendent reported that a special joint management committee of security and mental health staff meets regularly to assess the status of inmates on the mental health caseload and to look for signs of deterioration.

Finally, unlike at other SHUs, where recreation consists of standing alone in an empty outdoor cage, inmates at Sing Sing with good behavior can recreate in pairs. In addition, some of the recreation cages had a chin-up bar or a basketball hoop.

SHU at Sullivan Correctional Facility

The inmates at the SHU in Sullivan, which we visited in December 2002, expressed overall satisfaction about conditions. The unit itself was noticeably orderly and clean. The correction officers reported that they minimize tension by addressing inmate concerns as quickly and efficiently as possible. The inmates confirmed that officers were responsive and treated them well. They also praised the librarian for supplying them with ample and diverse reading materials. We were interested to learn that mental health counselors conduct regular rounds and stop by every cell, not just the cells of inmates on their caseload, to check for signs of mental deterioration. The superintendent reported that a room was being constructed for private mental health interviews and would be available for use within a few months.

SHU at Woodbourne Correctional Facility

At the Woodbourne SHU, which we visited in March 2003, there were no inmates on deprivation orders or the restricted diet. Because the unit held only 11 inmates, we were able to conduct structured interviews with all but three inmates in the allotted time period. The majority of men reported sufficient access to medical care, mental health staff, legal services and reading material. They described the grievance program as effective in resolving their concerns—a highly unusual response from SHU inmates, who tend to have many grievances and little faith in the system. Similar to the SHU at Sing Sing, the Woodbourne SHU permits inmates to recreate three at a time in a large pen and without shackles. Finally, every inmate we spoke with rated inmate-officer relations in the SHU as average or good.

VI. PROGRAMS To IMPROVE or EXPAND

Progressive Inmate Movement System (PIMS)

New York uses a "behavior modification" system known as PIMS, for Progressive Inmate Movement System, in which inmates can reduce their disciplinary sentences and receive increases in privileges by refraining from rule-violating behavior. Incoming inmates enter on PIMS Level I, the most restrictive status, and must progress to Level III, the least restrictive status, before they return to general population. Level I inmates are mechanically restrained (with handcuffs and waist chain) during all out-of-cell movement including visits. Earphones, commissary privileges, cell-study and phone calls are prohibited. They can take three showers a week. They must remain on Level I and receive no tickets for rule violations for 30 days before advancing to Level II.

At Level II, inmates can enroll in cell study and receive earphones and a deck of cards. Mechanical restraints are removed during visits. Upon completion of one half of their SHU time, Level II inmates are reviewed by a Disciplinary Review Committee, consisting of facility security and civilian staff. The committee can recommend to the superintendent that the inmate's remaining time in SHU be cut by up to one-third. The minimum criterion for movement to Level III is 30 days of good behavior on Level II.

At Level III, inmates receive an additional shower (for a total of four showers a week), an additional half-hour of recreation, and permission to wear personal shorts and sneakers, to buy candy in the commissary, and to make an occasional phone call. The Disciplinary Review Committee can recommend to the superintendent that the inmate receive a time-cut of one half or any portion of his time left in SHU.

The benefit of PIMS is that it gives inmates an opportunity to reduce their SHU sentence by staying out of trouble. At most facilities, this aspect of PIMS appears to work. The Disciplinary Review Committee meets regularly, the vast majority of inmates advance to Level III, and time cuts are frequently given. "Some inmates come in with 90 days of SHU time and are out in a month," the superintendent at Upstate reported.

The downside of PIMS is that the program is basically passive. Inmates need only to stay out of trouble, essentially do nothing, to "graduate." Staying out of trouble in the highly restrictive and artificial environment of 23-hour lockdown is hardly a meaningful accomplishment or reasonable guarantor that one can stay out of trouble in general population. Because PIMS provides inmates with few opportunities for failure, it offers minimal promise for success. The program's rigid structure and passive format do little to improve inmates' decision-making skills or ability to make positive choices. Conversely, inmates in the model program in Colorado (see p. 46) must complete a series of intensive therapeutic programs before they are deemed ready to return to general population.

PIMS could be significantly enhanced by providing inmates with goals to attain and programs through which to achieve them. Problems with managing anger, resolving conflict, avoiding gangs, respecting authority or abstaining from drugs should be identified upon entry and monitored throughout one's time in SHU. Programs focusing on these critical areas can be delivered via closed circuit TV or video programming. At a minimum, they should be delivered in written form through workbooks and lesson plans with cell side assistance by correction counselors and monitoring by correction officers. In addition, PIMS should be expanded to include a transitional component in which inmates are involved in small group activities as a means of helping them to return to the general population or the community.

Movement to PIMS Levels II and III is contingent upon space being available. Many inmates, particularly those at Southport, reported that although they had met the criteria for advancement, they had to wait for over a month to be moved to the next level. This problem undermines the basic principle of PIMS and should be promptly resolved. Colorado State Penitentiary, which is similar to Southport in facility size, age and the type of inmate it houses, deals with space issues by housing inmates at different levels together in the same cellblock or "pod." This practice not only allows the facility maximum flexibility in deciding how to use available cell space, but serves as a visible incentive to inmates who can see what privileges are granted (or taken away) at the different levels.

Pre-RSAT (Residential Substance Abuse Treatment)

Several of the S-Blocks offer pre-RSAT programs. RSATs are federally-funded, intensive, six-month residential substance abuse treatment programs operating in 16 New York State prisons. Inmates in some S-Blocks who are serving disciplinary sentences for drug use can participate in a "pre-RSAT" program, in which they work through a drug treatment curriculum aided by cellside counseling. Inmates who successfully complete Pre-RSAT are enrolled in an RSAT program in a general population prison once they finish their disciplinary sentence.

Pre-RSAT is a limited program requiring little staff time. It is the only "program" besides cell-study available to inmates in New York's lockdown units. Its key limitations are that it precludes illiterate inmates from participating and involves none of the group interaction and peer feedback that are key components of effective drug treatment. At a minimum, pre-RSAT should be available to any inmate in lockdown who is sufficiently motivated to request it. Better yet, it should be redesigned to provide something more than written information that inmates can read in their cells. It could make use of the existing but unused audio-visual hook-up capacity in the S-Blocks and at Upstate and show videotapes on such topics as relapse prevention, life skills and anger management.

The Special Treatment Program for Inmates with Mental Illness

In response to *Eng v. Goord*,[38] DOCS and OMH developed a small program for inmates with mental illness that enables them to earn their way out of lockdown and receive mental health services. Known as "STP," for Special Treatment Program, the initiative was piloted at Attica and recently expanded to Five Points. The program provides one hour a day of out-of-cell group therapy, some individual therapy, and the opportunity for a reduction of one's disciplinary sentence based on good behavior and compliance with a mental health treatment plan. The two programs serve a total of 45 inmates.

The STP inmates whom we interviewed at Five Points gave the program high marks. Inmates commented on the compassion and helpfulness of their mental health counselors, the value of group therapy and the ability to reduce their SHU time. Several inmates had graduated from the STP and were moved upstairs to the residential Intermediate Care Program, a long-term, treatment-rich unit for chronically mentally ill inmates. One prisoner told us that the program saved his life. A preliminary study by the Office of Mental Health showed that STP inmates had fewer disciplinary tickets, deprivation orders and psychiatric admissions upon completing the program.

With close to 1,000 inmates in disciplinary lockdown on the mental health caseload, the currently 45-bed capacity is clearly insufficient. DOCS and OMH should significantly expand the STP and broaden criteria for admission. Currently, STP is limited primarily to inmates with an Axis 1 psychiatric disorder, such as schizophrenia or bi-polar disorder. Many SHU inmates, however, also have an Axis 2 personality (or behavioral) disorder such as borderline personality disorder or anti-social personality disorder, which often makes them ineligible to participate. OMH officials reported that they recognize the pressing need to expand STP to include the most high-need inmates (those with both Axis 1 and Axis 2 disorders), but funding has not been allocated.

If funding is provided to expand STP, the use of "bird cages"—cage-like encasements the size of phone booths in which inmates are locked during group and individual counseling to prevent them from touching each other or staff—should be eliminated. Very few prison mental health programs and certainly no psychiatric hospitals use them. Such cages are counterproductive and unnecessary from a security standpoint; moreover, they undermine the therapeutic goals of helping participants to improve their social skills and to regulate their behavior.

[38] *Eng v. Goord*, Civ 80-CV-385S (WFS).

VII. OUT-of-STATE MODEL

Colorado State Penitentiary

Colorado State Penitentiary (CSP) opened in 1993 to provide centralized management and treatment of Colorado's most violent, high-risk inmates. Currently housing 756 of the state's approximately 20,000 inmates, CSP's mission, said Warden Larry Reid, "is to ensure that inmates receive the tools they need to reintegrate safely and successfully back into general population."

CSP was the first supermax in the country to be accredited by the American Correctional Association, and in 1997 it received the ACA's Best Practices: Excellence in Corrections award. Correction officials from 39 states and 18 foreign countries have visited CSP to learn from its success. We visited CSP in August 2003, and what we found is that even though CSP is Colorado's most highly secure facility for the system's most violent inmates, it stresses intervention and treatment over discipline and punishment. "CSP is not just a prison, it's a program," explained Warden Reid. "I want every warden in our system to feel confident that the inmates we send back to them will not jeopardize the safety or security of their facility."

The goal of CSP is not to punish behavior but to change it. "Inmates don't come here to be punished," said Dennis Burbank, Administrative Officer III, who spearheaded the original corrections team that designed CSP. "They're here because they need a higher level of control and intervention." The director of mental health services, Dr. John Stoner, said that the facility "takes all types of inmates but is particularly well-suited for inmates with serious behavioral and personality disorders." Approximately 16% of CSP inmates are on the mental health caseload.

Inmates are sent to CSP because they have displayed a pattern of "violent, dangerous, predatory and disruptive behavior" in less secure facilites, noted Warden Reid. "The vast majority of our inmates have earned their way here by demonstrating an inability to function appropriately in a general population setting," he added. The length of stay at CSP is indeterminate, and upon entering the facility, inmates are told that *they* hold the keys to their release. "It's part of an overall emphasis on self-empowerment," said Burbank. "We tell the inmates that the choices they make and the behavior they exhibit will determine when they leave. Our job is to motivate them to *want* to participate in treatment and change themselves."

Intervention and treatment begin during inmates' first week at CSP, when they meet with case managers, medical, mental health, security and program staff and develop an individualized program plan. Compliance with the plan is encouraged through a stratified "Quality of Life" system that offers increased privileges and incentives. Inmates can progress in seven days from Level 1, where they have no television or commissary privileges, to Levels 2 and 3, where they receive a television so that they can participate in programs, as well as additional commissary, phone calls and visiting hours. While

some Level 3 inmates work as porters on their housing unit, allowing them coveted "out-of-cell" time, the majority of inmates on Levels 1 through 3 are confined in their cells 23 hours a day. "For an inmate to be eligible for progression requires him to meet the behavioral and program expectations described," said Warden Reid.

CSP houses inmates in individual cells located in three housing towers. These towers are divided into six pods and further subdivided into eight separate areas consisting of 16 cells, two exercise rooms and two showers. Each pod of 128 inmates is overseen by six correction officers, two of whom man the security console while the other four officers cover the housing areas. During the night shift, three officers oversee the 128 inmates in each pod housing area. By contrast, New York's Southport Correctional Facility, which is similar in size to CSP and houses the same type of inmate, has *only one* officer on the night shift to oversee 168 inmates.

To motivate inmates, the administration houses inmates on different Quality of Life levels in the same pods. "The idea is that inmates on Level 1 can see the privileges that inmates on Level 2 and 3 have," said Warden Reid. "This motivates them to get to the next level."

Programs are provided through videos on closed circuit TV (CCTV) and individualized cell-side instruction. Inmates spend the majority of their time in lockdown watching program presentations and doing homework. Twice a week they receive cell-side tutoring from instructors, and all staff, including correction officers, serve as quasi-case managers.

To monitor and facilitate inmates' progress, staff members are encouraged to communicate regularly with prisoners in their housing areas. Correction officers are required to submit weekly notes on the inmates in their care. During our tour, only one cell pod was audibly loud. When we asked the correction officer why the inmates were upset, he explained that a broken shower had disrupted their routine. "I talk to the inmates every day," he said. "If you don't establish a rapport with them, then you won't know what to expect. And if something happens and you didn't see it coming, you're not doing your job."

CSP's programs are grounded in "cognitive restructuring," a therapeutic approach designed to improve self-awareness and decision-making. The following programs, as described in a facility brochure, are offered at CSP:

- *Anger Management*, which provides cognitive intervention for inmates whose behavior reflects poor impulse control, aggression, rage, and/or violence.

- *Behavioral Health Care*, which offers tools for building, strengthening and maintaining relationships, avoiding criminal thinking and understanding the psychological and physiological aspects of drug abuse.

- *Crime Impact*, which focuses on morals, ethics and beliefs and how one's behavior reflects one's beliefs.

- *Personal Awareness—Gangs*, which presents inmates with philosophical questions designed to promote insight and awareness. The curriculum is based on "restructuring insight," a proven cognitive education method.

- *Prison Life Management Skills*, which provides techniques for developing positive, nonviolent coping skills. Weekly assignments pertain to stress management, emotional control, communication skills, conflict resolution, self-acceptance, self-esteem, and cultural diversity.

In addition, inmates can participate in Adult Basic Education (ABE), GED preparation and English-as-a-Second-Language classes. Unlike inmates in lockdown facilities in New York, CSP inmates can take the GED exam. "We include academic instruction in the program because it is an important tool in building self-esteem," said Dennis Burbank.

Daily interactions between staff and inmates are designed to give inmates an opportunity to *choose* their behavior, rather than forcing them to behave. Correction officers do not carry batons, and the facility has an official "no-touch" policy, meaning that neither inmates nor staff can put their hands on each other during routine out-of-cell movement. "This policy is particularly important when inmates are handcuffed and hyper-alert," explained Warden Reid. "Handcuffed inmates are in a vulnerable position. We believe that it's safer for correction officers to use verbal commands to direct them rather than touch them."

At CSP, inmates are housed in single cells (staff believe that double-celling is dangerous and inappropriate, particularly for assaultive inmates) that measure 81.6 square feet in size. In New York, some 3,000 inmates live two men to a cell in a space that measures 105 square feet. CSP inmates have intercoms in their cells to communicate with correction officers in the security console, a sensible system considering that inmates depend on staff for everything from food to medical attention to toilet paper.[39]

CSP averages about three cell extractions per month. "Other uses of force are minimal given the type of inmate we are charged to manage," said Warden Reid. "A use of force is any time a staff member touches an inmate to gain compliance. The only time staff should routinely touch an inmate is when applying restraints. Whenever you have a use of force," he added, "you have failed in your program."

[39] We asked a correction officer if inmates abuse the system. The officer said no, because inmates appreciate the direct line of communication to staff and know it can be turned off if they abuse it. Inmates might use the intercom to alert staff to medical emergencies, the officer said, and officers use it to inform inmates of visits, recreation call-outs and showers.

Once inmates have fully satisfied their program requirements and maintained good behavior in lockdown, they are transferred to the Progressive Reintegration Opportunity (PRO) Unit, where they have out-of-cell time and small-group activities. The goal of the PRO Unit is to ease the transition from 23-hour lockdown to general population. The seven-month PRO program continues the cognitive treatment and education inmates participated in while in lockdown, but the lessons are delivered in a classroom setting. Inmates recreate in small groups to begin developing socialization skills. While in the PRO Unit, inmates can participate in Post Secondary Education, which includes a business management class and professional janitorial program. When inmates successfully complete the PRO Unit, they are transferred to a general population facility.

All CSP personnel—civilian and security—attend a three-week training program together, followed by a week of on-the-job training at CSP. The administration requires all CSP staff to participate in annual follow-up training and to attend "briefing" sessions at the start of each shift. Approximately one-third of CSP's 450 employees are officially designated as support staff, and two-thirds security staff. Almost one-third of correction officers are female, a higher proportion than at most correctional facilities.

The average length of stay at CSP is approximately 36 months, slightly over half of which is spent in 23-hour lockdown. CSP officials acknowledge that while three years might strike outside observers as unduly long, they believe it is necessary given inmates' years if not decades of maladaptive behavior.

Since CSP's inception in 1993, over 2,726 inmates have left the facility, most to less secure settings. Of these, just 232 inmates were sent back to CSP, for a return rate of 8.5%.[40] Finally, the success of Colorado State Penitentiary is demonstrated by the relative absence of suicide attempts, escapes, assaults and other violent incidents. There has not been one suicide at the facility since it opened.

[40] "Return" here is defined as being sent back to CSP within three years of release to a less secure setting. Colorado Department of Corrections is one of the few corrections departments in the country that officially tracks return rates of supermax inmates.

VIII. RECOMMENDATIONS

Given the isolated nature of lockdown facilities, there is great potential for misuse of authority, violation of policies, and abuse of both inmates and staff. Lacking careful measures to mitigate against these factors, total lockdown units can become breeding grounds for cruel behavior and callous indifference to human suffering. This report gives grim testimony to the serious problems that exist in New York's lockdown units. We call on the Governor and other state policymakers to take bold action to address the grave deficiencies that characterize conditions inside these prisons within New York's prison system.

1. Increase Oversight

- **Create a permanent, independent oversight board with the authority to monitor conditions in 23-hour lockdown units.** The oversight board should conduct monitoring visits, make unannounced inspections, investigate complaints, evaluate compliance with directives and report findings and recommendations annually to the legislature and the public. Total lockdown facilities consume millions of taxpayer dollars and have too much potential for abuse for their operations not to be more closely watched.

- **Increase monitoring by legislators and judges**. New York State legislators, particularly members of the Assembly's Committee on Corrections, the Senate's Committee on Crime, Crime Victims and Corrections, and the judiciary should use their authority to conduct regular monitoring visits to lockdown units throughout the state and to speak confidentially with the inmates and correction officers who work there.

- **Regularly review the inmate death reports published by the New York State Commission of Correction and implement its recommendations.** The Commission of Correction, the state's prison oversight agency, regularly investigates inmate deaths and issues detailed reports of findings and recommendations for policy and procedure changes. These carefully considered recommendations often go unheeded, however, because no entity requires their implementation. The independent oversight board and/or the Governor's Director of Criminal Justice should review the Commission's reports and hold DOCS and/or OMH accountable for making necessary reforms.

2. Provide Appropriate Housing for Prisoners with Mental Illness

- **Enact legislation that prohibits confining mentally ill inmates in 23-hour disciplinary lockdown.** Successful litigation in a growing number of states has forced Departments of Correction to design more humane housing for disturbed, disruptive inmates. New York policymakers should pursue

remedies on their own—before current litigation mandates those remedies. The Governor and legislature should endorse the bill introduced by Assemblymember Jeffrion Aubry, Chair of the Corrections Committee, that prohibits housing inmates with serious mental illness in lockdown units and creates correctional psychiatric facilities for inmates with mental illness.

- **Expand the Special Treatment Program for inmates with mental illness in SHU.** This jointly run program by DOCS and OMH accommodates less than 50 inmates system-wide, while nearly 1,000 individuals on the mental health caseload languish in disciplinary lockdown. The program should be expanded and adequately funded to include more inmates.

- **Provide DOCS and OMH with the necessary funding** to properly house and treat inmates who should not be confined in 23-hour lockdown units because of mental illness.

- **Institute a suicide prevention program in every 23-hour lockdown unit, including keeplock.** Approximately half of inmate suicides in New York State prisons take place in 23-hour lockdown, although these units hold less than 10% of the inmate population. A properly administered suicide prevention program could mean the difference between life and death for inmates in 23-hour lockdown.

3. Reduce Overall Use of 23-Hour Disciplinary Lockdown

- **Restrict the use of disciplinary lockdown to inmates who commit serious offenses.** The National Institute of Corrections of the U.S. Department of Justice asserts that lockdown facilities are inappropriate for the "nuisance inmate." DOCS should limit the use of long-term disciplinary lockdown to the most serious disciplinary cases.

- **Review disciplinary policies with the goal of instituting greater proportionality** between sentence length and infraction and to ensure more consistency among hearing officer rulings.

- **Reduce the use of additional time in 23-hour lockdown as a punishment for violation of rules** by segregated inmates. DOCS should explore alternatives that would promote rule-abiding behavior by inmates without lengthening their time in segregation, such as mandatory anger management training.

4. Eliminate Unnecessarily Harsh, Counterproductive or Dangerous Practices

- **Avoid double-celling lockdown inmates to the extent practicable.** Few states have taken New York's approach of double-celling thousands of

inmates in 23-hour lockdown. Forcing two men to live 24 hours a day in a cell the size of a bathroom *invites* violence. In addition, inmates who have shown the capability of inflicting serious violence should never be double-celled.

- **End the practice of issuing disciplinary tickets to inmates who attempt suicide or self-mutilate.** Inflicting punishment on people in such desperate straits is a misguided and inhumane policy.

- **Use medical examining rooms for all clinical consultations, including drawing blood.** The current practice of drawing blood through the food slot in the cell door should be prohibited, as it leaves inmates in an unsupported position and in danger of falling. It also erodes trust between prisoners and medical staff and is dehumanizing.

- **Provide intercoms in cells so inmates can contact staff in cases of emergency.** The majority of inmates we interviewed expressed little confidence that staff would arrive promptly if needed. Given the higher rate of suicide in lockdown, the isolation of many inmates behind thick doors and the documented instances of neglect, New York correction officials would be wise to follow Colorado State Penitentiary's approach of equipping all cells in which inmates are confined 23 hours a day with intercom systems.

- **End the practice of mechanically restraining inmates during recreation**. Requiring an inmate to wear restraints while confined alone in an empty cage is excessively punitive.

- **Eliminate the use of "bird cages" and shackles in the Special Treatment Program**. Patients in secure psychiatric facilities who have histories of violent behavior are not shackled and confined in cages during group therapy, or at any other time unless they exhibit seriously dangerous behavior. DOCS should end the counterproductive and dehumanizing practice of caging inmates, who are already shackled and in 23-hour lockdown, during "therapeutic" programming.

- **End the practice of punishing prisoners with a restricted diet of bread and raw cabbage**. The Federal Bureau of Prisons and many other states have discontinued the practice of disciplining inmates by depriving them of standard meals. New York should as well.

- **Permit some form of exercise equipment** (such as a chin-up bar or a ball) in the empty outdoor recreation pens.

- **Allow inmates to wear appropriate clothing, including gloves, during recreation**. Many New York prisons are located in cold, northern climates. Prohibiting inmates from wearing gloves and other appropriate clothing leads many of them to pass up their legally mandated one hour of recreation.

5. Provide meaningful programs to inmates in lockdown.

- **Allocate the resources needed to expand the capacity of CNYPC** so that the prison system can better accommodate the treatment needs of severely mentally ill inmates.

- **Increase funding for the Special Treatment Program that provides therapeutic services for mentally ill inmates in lockdown units.** The 45-bed capacity of this well-regarded program is clearly insufficient to meet the needs of the nearly 1,000 inmates in disciplinary lockdown on the mental health caseload.

- **Provide anger management, self-help and educational programs** through in-cell TV-video presentations. The technology for in-cell TV programming exists but remains unused in the S-Blocks and Upstate Correctional Facility.

- **Use empty cell space for substance abuse treatment programs.** With many vacant cells in the S-Blocks, policymakers should examine the feasibility of converting a 200-bed S-Block into a centralized Residential Substance Abuse Treatment (RSAT) program for the hundreds of inmates who are sent to disciplinary lockdown each year for drug use.

- **Revise the Progressive Inmate Movement System (PIMS).** DOCS should overhaul its behavior modification program known as "PIMS" so that inmates are required to do more than stay out of trouble to earn their way out of lockdown. This passive form of behavior modification affords few opportunities for changing imbedded antisocial behavior, and is no guarantor that inmates who advance through PIMS are better prepared to live safely with others in general population or society.

- **Increase public and prison safety by requiring inmates to participate in group activity prior to their release.** No inmate should be released directly from lockdown to general population or society. Inmates on PIMS Level III should be required to participate in congregate activities to prepare them, and determine their readiness, for release.

- **Ensure that cell space is available on each PIMS level** so that inmates who have earned increased privileges do not have to wait months to receive them, or consider the Colorado Department of Corrections' method of housing inmates on different levels together, so that the benefits of incentives are visible.

- **Permit inmates in disciplinary confinement to take the GED exam.** If motivated individuals elect to use their time in 23-hour lockdown to prepare for the GED exam, they should be permitted to take it.

6. Identify and Address the Needs of Correction Officers

- **Appoint a task force of seasoned correction officers to identify ways to improve the safety, morale and training of security staff** in 23-hour lockdown units. The recommendations of this task force should be reported to the legislature and translated into programs and policies.

SOURCES

Adams, Kenneth

1983 Former mental patients in a prison and parole system. *Criminal Justice and Behavior, 10,* 358-84.

Bonner, Ronald

2000 Correctional suicide prevention in the year 2000 and beyond, *Journal of the American Association of Suicidology, Winter 2000, 30,* 370-376.

Camp, Camille, G. and George, M.

2001 The corrections yearbook 2001. Middletown, CT: Criminal Justice Institute.

Ditton, P.

1999 Mental health and treatment of inmates and probationers. National Institute of Justice. U.S. Department of Justice

Feely, Malcolm and Jonathan Simon

1992 The new penology: Notes on the emerging strategy of corrections and its implications. *Criminology, 30,* 449-475.

Fellner, Jamie

1999 *Red onion state prison: Super-maximum security confinement in Virginia*. New York: Human Rights Watch.

Fellner, Jamie

1997 *Cold storage: Super-maximum security confinement in Indiana*. New York: Human Rights Watch.

Goffman, Irving

1957 Characteristics of total institutions. In Marquart, J. & Sorensen, R. (eds.), *Correctional Contexts: Contemporary and Classical Readings.* Los Angeles: Roxbury.

Goord, Glenn

2000 Commissioner's policy paper on inmate safety and programming. Albany: NYS Department of Correctional Services.

Grassian, Stuart and Nancy Friedman

1986 Effects of solitary deprivation in psychiatric seclusion and solitary confinement. *International Journal of Law and Psychiatry* 8:49-65.

Haney, Craig
1993 Infamous punishment: The psychological consequences of isolation. In James W. Marquart and Jonathan r. Sorensen, R. (eds.), *Correctional Contexts: Contemporary and Classical Readings.* Los Angeles: Roxbury.

Haney, Craig and Philip Zimbardo
1998 The past and the future of U.S. prison policy: Twenty-five years after the Stanford prison experiment. *American Psychologist,* 53, 709-27.

Kerr, Sarah
2000 "Mental health care in special housing units in New York State correctional facilities." Testimony presented to the New York State Democratic Task Force on Criminal Justice Reform. Brooklyn, NY.

King, Roy D.
1999 The rise and rise of supermax: An American solution in search of a problem? *Punishment and Society, 1,*163-186.

Kupers, Terry
1999 *Prison madness: The mental health crisis behind bars and what we must do about it*. San Francisco: Jossey-Bass.

Kurki, Leena and Morris, Norval
2001 The purposes, practices, and problems of supermax prisons. *Crime and Justice, 28,* 385-424.

Lamb, Richard H., and Weinberger, Linda
1998 Persons with severe mental illness in jails and prisons: A review. *Psychiatric Services 49,* 483-92.

Phieffer, Mary Beth
2001 Suicides high in prison 'box.' *Poughkeepsie Journal,* December 16, 2001.

Phieffer, Mary Beth
2002 Suicides in solitary are abnormally high. *Poughkeepsie Journal,* April 14, 2002.

Phieffer, Mary Beth
2003 Mental care faulted in 6 prison deaths. *Poughkeepsie Journal,* June 28, 2003.

Toch, Hans
1982 The disturbed disruptive inmate: Where does the bus stop? *Journal of Psychiatry and Law 10,* 317-349.

Toch, Hans and Kenneth Adams
1986 Pathology and disruptiveness among prison inmates. *Journal of Research in Crime and Delinquency 23*, 7-21.

Toch, Hans
2001 The future of supermax confinement. *The Prison Journal, 81*, 375-387.

U.S. Department of Justice
1997 *Supermax housing: A survey of current practice, special issues in corrections.* Longmont, CO: National Institute of Corrections.

U.S. Department of Justice
1999 *Supermax prisons: Overview and general considerations*. Longmont, CO: National Institute of Corrections.

THE CORRECTIONAL ASSOCIATION OF NEW YORK
Board of Directors

Acknowledgments

Numerous people contributed to this report. Ralph S. Brown, Jr., chair of the Correctional Association's Prison Visiting Committee, James D. Silbert, chair of the Board of Directors, Clay Hiles, vice chair of the Board of Directors, and Robert Gangi, executive director of the Correctional Association, guided the project from inception to completion. Jennifer R. Wynn, director of the Prison Visiting Project, served as principal author of the report. Project associate Alisa Szatrowski spearheaded the data analysis and data collection effort. Board members John M. Brickman, Wilhelmus B. Bryan III, and David D. Troutt provided important editorial input and review.

The Correctional Association thanks the following members of the Prison Visiting Committee who spent many hours of their time visiting disciplinary lockdown units and interviewing inmates and staff: Katie Adams, Gail Allen, M.D., Heather Barr, Safiya Bandele, Anthony Bianchi, Ralph S. Brown, Jr., Robert Corliss, Nancy Duggan, Ph.D., Alan Felix, M.D., Nereida Ferran, M.D., James Gilligan, M.D., Clay Hiles, Philip Johnson, Ricky Jones, Romeo Sanchez, Rod Sanchez-Camus, James D. Silbert, Peter Swords, William Thompson and Gregory Warner.

We extend our appreciation to the following individuals whose expertise and writing on disciplinary confinement informed our research in critical ways: Jamie Fellner, senior counsel, Human Rights Watch; Stuart Grassian, M.D. of Harvard Medical School; Norval Morris, professor of law and criminology emeritus at the University of Chicago; Hans Toch, distinguished professor at the State University of New York in Albany; and journalists Jennifer Gonnerman of *The Village Voice*, Paul Grondahl of *The Albany Times-Union*, and Mary Beth Pheiffer of *The Poughkeepsie Journal*.

We are especially grateful to Warden Larry Reid, Senior Administrator Dennis Burbank and psychiatrist Dr. John Stoner of the Colorado State Penitentiary for their insight and gracious hospitality during our visit.

Above all, we wish to thank the many inmates, correction officers, civilian staff, superintendents and union officials in the New York State prison system who generously shared their time and observations with us. We are deeply grateful for their participation, and in particular the trust of prisoners and officers who spoke with us. We hope that this report gives adequate expression to the concerns of the thousands of inmates and staff who live and work in 23-hour lockdown, and that state policymakers will address these concerns by acting on the recommendations put forth.

This report was made possible with the generous support of the Irene Diamond Fund, The New York Community Trust, and the Prospect Hill Foundation.