

Midwest Coalition for Human Rights

Advocating for fairness and human dignity

Written Testimony of the Midwest Coalition for Human Rights
Hearing Before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights
“Reassessing Solitary Confinement: The Human Rights, Fiscal, and Public Safety Consequences”
Tuesday, June 19th, 2012

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ABOUT THE MIDWEST COALITION FOR HUMAN RIGHTS

The Midwest Coalition for Human Rights (Coalition or Midwest Coalition) is a network of 56 organizations, service providers, and university centers, that work together to promote and protect human rights in our Midwest region. Through collaboration in the Heartland, we advocate, educate and take action with a strong regional voice on national and international human rights issues.

POSITION STATEMENT

The Midwest Coalition for Human Rights calls for an end to prolonged solitary confinement in excess of 15 days, any period of solitary confinement of juveniles and persons with mental disabilities, and the use of solitary confinement as a form of punishment. The Coalition finds that these practices violate basic human rights and human dignity.

OVERVIEW: SOLITARY CONFINEMENT ACROSS THE NATION

Solitary confinement is used extensively throughout the United States penitentiary system. It is manifested in “supermax prisons,” short for super maximum security prisons, as well as specific units within regular prisons. These specific units may be referred to as segregation, administrative segregation, control units, security housing units (SHU), special management units (SMU), or “the hole”. A review of a census of state and federal prisoners conducted by the federal Bureau of Justice Statistics reveals that over 80,000 prisoners are held in some form of solitary confinement in this country.¹ Approximately 25,000 of those individuals are in supermax prisons, facilities devoted exclusively to prolonged solitary confinement.²

¹ Angela Browne, Alissa Cambier, Suzanne Agha, *Prisons Within Prisons: The Use of Segregation in the United States*, 24 FED’L SENTENCING REPORTER 46 (2011)

² Sharon Shalev, *Supermax: Controlling Risk Through Solitary Confinement*, Willan Publishing, 2009; Daniel P. Mears, *Evaluating the Effectiveness of Supermax Prisons*, Urban Institute Justice Policy Center, March 2006, <https://www.ncjrs.gov/pdffiles1/nij/grants/211971.pdf>

CONDITIONS OF CONFINEMENT

Inmates held in prolonged solitary confinement throughout the U.S. face extreme social isolation, severely restricted environmental stimulation, limited movement, and harsh punishment for problematic behavior sometimes caused by mental illnesses. Activities that are common in most prisons, such as educational and rehabilitative programs, jobs, religious services, outdoor exercise, and visits from family or friends are greatly reduced for these inmates.³

The harsh nature of prolonged solitary confinement is exemplified in Tamms Correctional Center's Closed Maximum Security (CMAX) facility located in Southern Illinois. Inmates in Tamms are locked alone in 7x12 foot cells for 23 or 24 hours each day.⁴ Many have been held there for extended periods of time, often ten years or more.⁵ They are severely deprived of human interaction and environmental stimulation. For example, at least one inmate did not have reading materials in his cell for a number of years until a lawyer intervened on his behalf.⁶ Recreation is limited to one-hour sessions (alone) in concrete or metal cages featuring at most a handball or pull-up bar.⁷

Guidelines for placement of inmates in supermax facilities are vague and sometimes non-existent. Non-threatening individuals or inmates with mental illness are frequently held in these facilities.⁸ Inmates are typically placed in supermaxes for indefinite periods of time,⁹ and inadequate and illegitimate review proceedings can make it very difficult for them to transfer out.¹⁰

In the extremely isolated confines of supermax detention facilities, abuse and excessive force by prison guards is relatively common and often overlooked.¹¹ Management in these facilities frequently fails to enforce a prison policy that rejects abuse. Prison guards use excessive force including cell extractions and the discharge of electronic stun devices, stun guns, chemical sprays, shotguns with rubber pellets, and guns loaded with lethal munitions.¹²

PSYCHOLOGICAL EFFECTS OF SOLITARY CONFINEMENT

Solitary confinement can have harmful and irreversible psychological effects.¹³ Individuals held in solitary confinement experience anxiety, depression, anger, cognitive disturbances, perceptual distortions, paranoia and psychosis, and self-harm.¹⁴ A number of men in Tamms CMAX have reported experiencing these symptoms as a result of their confinement. One Tamms prisoner has engaged in self-mutilation hundreds of times since first entering the facility seven years ago,

³ Craig Haney, *Mental Health Issues in Long-Term Solitary and "Supermax" Confinement*, *Crime & Delinquency*, January 2003, vol. 49 no. 1, at 124-156.

⁴ Gary Marx, "A Look Inside Illinois' Only Super-Max Prison," *Chicago Tribune*, February 27, 2009.

⁵ George Pawlaczyk & Beth Hundsdorfer, *Trapped in Tamms: In Illinois' only Supermax Facility, Inmates are in Cells 23 Hours a Day*, *The Belleville News Democrat*, October 2010, available at <http://www.bnd.com/2009/08/02/865377/trapped-in-tamms-in-illinois-only.html>.

⁶ *Id.*

⁷ *Id.*

⁸ Vera Institute of Justice, *Confronting Confinement: A Report of the Commission on Safety and Abuse in America's Prisons*, 2006, available at http://prisoncommission.org/pdfs/Confronting_Confinement.pdf.

⁹ ACLU, *Abuse of the Human Rights of Prisoners in the United States: Solitary Confinement*, February 2011, available at <http://www.aclu.org/human-rights-prisoners-rights/abuse-human-rights-prisoners-united-states-solitary-confinement>.

¹⁰ Human Rights Watch, *Out of Sight: Super-Maximum Security Confinement in the United States*, February 2000, available at <http://www.hrw.org/reports/2000/02/01/out-sight-super-maximum-security-confinement-us>.

¹¹ ACLU, *supra*

¹² Human Rights Watch, *supra*

¹³ Craig Haney, "Mental Health Issues in Long-Term Solitary and 'Supermax' Confinement, *Crime and Delinquency*", vol. 49, No1, pp. 124-156.

¹⁴ Sharon Shalev, *A Sourcebook on Solitary Confinement* (London, Manneheim Centre for Criminology, 2008), pp. 15-17.

frequently requiring hospitalization.¹⁵ What's more, the effects of solitary confinement on mental health, personality, and social behavior are long-term. This impairs individuals' ability to reintegrate into society when released from imprisonment and damages relationships, families, and communities.¹⁶

Solitary confinement is particularly damaging to individuals with mental illness. The extreme conditions of confinement can exacerbate preexisting mental illness or provoke a recurrence of mental illness.¹⁷ Individuals with mental illness are disproportionately represented in supermax facilities.¹⁸ For example, prison officials in the Secured Housing Unit (SHU) at the Wabash Valley Correctional Facility in Indiana stated that "well over half" of the prisoners in the unit were mentally ill.¹⁹ Prison administrators respond to uncooperative behavior caused by mental illness with punishment such as a withdrawal of privileges and lengthening their term in isolation, perpetuating their illness and delaying recovery.²⁰

Juveniles are also among the more vulnerable individuals subjected to solitary confinement. Juveniles placed in solitary confinement, due to their developmental vulnerability, "...are at particular risk of adverse reactions," including depression, anxiety and psychosis.²¹ In fact, the majority of suicides in juvenile correctional facilities occur when the individual is completely isolated or held in solitary confinement.²² Recognizing the inherent psychiatric risks of prolonged solitary confinement for juveniles, the American Academy of Child & Adolescent Psychiatry issued a policy statement in April 2012 concurring with the United Nations position²³ opposing the use of solitary confinement in correctional facilities for juveniles.²⁴

U.S. COURTS CONFIRM DEVASTATING EFFECTS OF SOLITARY CONFINEMENT

U.S. courts have concurred that prolonged solitary confinement has devastating effects. In 1988, the Chicago-based U.S. Court of Appeals for the Seventh Circuit observed 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."²⁵ In 2001, a Wisconsin federal court found that "many prisoners are not capable of maintaining their sanity in such an extreme and stressful environment; a high number attempt suicide" in addressing the use of solitary confinement.²⁶ Most recently, an Illinois federal court found in 2010 that "Tamms imposes drastic limitations on human contact, so much so as to inflict lasting psychological and emotional harm on inmates confined there for long periods."²⁷

¹⁵ George Pawlaczyk & Beth Hundsdofer, *supra*

¹⁶ UN General Assembly, Interim report prepared by the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman, or degrading treatment or punishment, Juan E. Mendez: *Torture and other cruel, inhuman, or degrading treatment of punishment*, sixty-sixth session, 5 August 2011, pp.20, line 72.

¹⁷ Human Rights Watch, *Ill-Equipped: U.S. Prisons and Offenders with Mental Illness*, October 2003, available at <http://www.hrw.org/en/reports/2003/10/21/ill-equipped>.

¹⁸ *Id.*

¹⁹ Howard Greninger, *Suit targets Carlisle Prison*, Terre Haute Tribune-Star, Feb. 4, 2005.

²⁰ Human Rights Watch, *supra*

²¹ Grassian, Stuart. "Psychiatric Effects of Solitary Confinement," *Journal of Law and Public Policy*, (2006): 325-383.

²² Mitchell, Jeff, M.D. & Varley, Christopher, M.D. "Isolation and Restraint in Juvenile Correctional Facilities," *J.Am. Acad. Child Adolesc. Psychiatry*, 29:2, March 1990.

²³ Section 67 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, approved by the General Assembly in December 1990, and supported by the United States, states, "All disciplinary measure constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned."

²⁴ American Academy of Child & Adolescent Psychiatry, Policy Statement, "Solitary Confinement of Juvenile Offenders," April 2012, available at http://www.aacap.org/cs/root/policy_statements/solitary_confinement_of_juvenile_offenders.

²⁵ *Davenport v. DeRobertis*, 844 F.2d 1310, 1313 (7th Cir. 1988).

²⁶ *Jones 'El v. Berge*, 164 F. Supp. 2d 1096, 1102 (W.D. Wis. 2001).

²⁷ *Westefer v. Snyder*, 725 F. Supp. 2d 735, 769 (S.D. Ill. 2010).

INTERNATIONAL HUMAN RIGHTS COMMUNITY DENOUNCES SOLITARY CONFINEMENT

Prolonged solitary confinement is contrary to international standards and conflicts with U.S. obligations under the International Covenant on Civil and Political Rights and the Convention against Torture.^{28,29}

In a report delivered at the United Nations General Assembly in August, 2011, UN Special Rapporteur on Torture Juan Méndez stated that “Solitary confinement, when used for the purpose of punishment, cannot be justified for any reason, precisely because it imposes severe mental pain and suffering beyond any reasonable retribution for criminal behavior.”³⁰ Additionally, he finds that solitary confinement is “contrary to one of the essential aims of the penitentiary system, which is to rehabilitate offenders and facilitate their reintegration into society.”³¹ Mr. Méndez urged states to prohibit the imposition of solitary confinement as punishment, calls on countries to abolish the use of solitary confinement for juveniles and persons with mental disabilities, and recommends that prolonged solitary confinement, in excess of 15 days, should be subject to an absolute prohibition.

Upon reviewing the use of prolonged isolation in the United States in 2006, the U.N. Committee Against Torture expressed concern “about the prolonged isolation periods detainees are subjected to, the effect such treatment has on their mental health, and that its purpose may be retribution, in which case it would constitute cruel, inhuman or degrading treatment or punishment”. The Committee called on the United States to “review the regime imposed on detainees in ‘supermaximum prisons’, in particular the practice of prolonged isolation.”³² Since then the Committee has taken a stronger position on this issue, recommending (in a 2007 review of Denmark) that solitary confinement only be used as a measure of last resort and for as short a period of time as possible. The Committee also recommended that cases remain under strict supervision with the possibility for judicial review.³³

CONCLUSION & RECOMMENDATIONS

The Midwest regional and the international human rights communities remain deeply concerned about the United States’ use of solitary confinement. The United States must respond to domestic and international calls for reform by ensuring full compliance with both the United Nations Standard Minimum Rules for the Treatment of Prisoners³⁴ and the recommendations made by the U.N. Special Rapporteur on Torture in his August, 2011 report on solitary confinement.³⁵ The guidelines and recommendations set forth in these documents include, but are not limited to, the following:

²⁸ UN General Assembly, *Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*, 10 December 1984, United Nations, Treaty Series, vol. 1465, p. 85.

²⁹ UN General Assembly, *International Covenant on Civil and Political Rights* (Article 7), 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171.

³⁰ UN General Assembly, Interim report of the Special Rapporteur on Torture, 4 August 2011.

³¹ *Ibid.*, pp. 22, line 79.

³² U.N. Comm. Against Torture, 36th Session, Consideration of Reports Submitted by States Parties Under Article 19 of the Convention: Conclusions and Recommendations of the Committee Against Torture: United States of America, U.N. Doc. CAT/C/USA/CO/2, at ¶ 36 (May 18, 2006).

³³ *See, e.g.*, U.N. Comm. Against Torture, Consideration of Reports Submitted by States Parties Under Article 19 of the Convention: Denmark, ¶ 14, U.N. Doc. CAT/C/DNK/CO/5 (July 16, 2007).

³⁴ United Nations, Standard Minimum Rules for the Treatment of Prisoners, 30 August 1955, available at: <http://www.unhcr.org/refworld/docid/3ae6b36e8.html> [accessed 14 June 2012]

³⁵ UN General Assembly, Interim report of the Special Rapporteur on Torture, 4 August 2011, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/445/70/PDF/N1144570.pdf?OpenElement> [accessed 14 June 2012]

- 1) Prolonged solitary confinement, in excess of 15 days, should be absolutely prohibited.³⁶
- 2) Solitary confinement should never be used for juveniles or persons with mental disabilities.³⁷
- 3) Solitary confinement should not be used as a form of punishment, either as a part of a judicially imposed sentence or a disciplinary measure.³⁸

The Midwest Coalition for Human Rights urges Congress to demonstrate its commitment to human rights and human dignity by insisting on U.S. compliance with these guidelines.

³⁶ Ibid., pp 23, line 88

³⁷ Ibid., pp 23, line 86

³⁸ Ibid., pp 22, line 83