

Bar Grate

**Testimony for the House Judiciary Committee Hearing on Solitary Confinement
August 2, 2010**

I'd like to begin by thanking the House Judiciary Committee for organizing this hearing on one of the most urgent human rights and racial justice crises facing the people of Pennsylvania. I would also like to invoke the presence of those countless hundreds of prisoners and their families and loved ones on the outside whom I have had the humble honor and responsibility to work with these last three years. To those on the inside and outside who have recognized your own power in speaking out against human rights violations I offer my respect and pray that my words do justice to the seriousness of the task ahead of us all.

Since September 2007 I have worked with the Human Rights Coalition-Fed Up! (HRC-Fed Up!) as an investigator into conditions of confinement and allegations of abuse. During this time I have reviewed thousands of pages of prisoner letters, civil litigation documents, institutional paperwork, affidavits and declarations, and other relevant documentation pertaining to reports of human rights violations inside PA prisons. In addition to this documentation I have reviewed relevant literature on the legal, political, historical, economic, and policy considerations involved in the operation of the prison system in Pennsylvania and the United States. I have also conducted hundreds of hours of interviews with current and former prisoners and their family members and loved ones.

Solitary confinement has been a central feature of this work. The U.S. subjects more people to this form of torture than perhaps any other society in history, with approximately 100,000 people being held in some form of solitary on any given day.

On any given day in the PA DOC there are more than 3,000 people held in solitary confinement. Unlike many other states, where high-security prisoners are confined in one or two supermaximum-security prisons, the PA DOC has a decentralized system of high-security solitary confinement units known as Restricted Housing Units (RHUs).

The widespread use and abuse of solitary confinement by the PA DOC is exacting a crucial—though largely hidden—toll on recidivism rates, crime rates, healthy families, public safety, race relations, and the state budget. I would also suggest that the reality of solitary confinement poses troubling, uncomfortable questions about the moral and legal basis of our governmental institutions for the simple reason that solitary confinement is torture, and torture is a crime against humanity.

The psychological impact of solitary was the subject of an article published last year in the New Yorker by Dr. Atul Gawande, titled "Hellhole."¹ In the article, Senator John McCain is quoted as saying, "It's an awful thing, solitary. It crushes your spirit and weakens your resistance more effectively than any other form of mistreatment." Gawande concludes that solitary confinement is indeed torture, stating that "simply to exist as a normal human being requires interaction with other people." By preventing individuals the opportunity to interact with others in a meaningful way, solitary confinement deprives them of a core part of their humanity.

McCain and Gawande's views fit within a well established clinical and professional consensus regarding the psychological and psychiatric impact of solitary. One of the foremost experts on the subject, Dr. Stuart Grassian, has noted that even a few days of solitary confinement will predictably alter brainwaves to an abnormal pattern characteristic of stupor and delirium. Grassian's extensive research has led him to conclude that solitary confinement produces predictable symptoms of an "organic brain delirium" that include perceptual distortions and hallucinations; panic attacks; difficulties with thinking, concentration, and memory; overt paranoia; obsessive and aggressive thoughts; and problems with impulse control.ⁱⁱ

In a review of the vast literature on the subject, which dates back to the 19th century, Peter Scharff Smith, Senior Researcher of the Danish Institute for Human Rights, notes that "research on effects of solitary confinement has produced a massive body of data documenting serious adverse health effects." "In 1986, for example, Stuart Grassian and psychologist Nancy Friedman concluded that 'late nineteenth and early twentieth-century German clinicians . . . contributed altogether thousands of descriptions of psychosis associated with solitary confinement' while the "more recent literature on this subject has also nearly uniformly described or speculated that solitary confinement has serious psychopathological consequences" A 1992 study by psychologist Hans Toch, based on hundreds of in-depth interviews with inmates in New York state prisons, uses the term "isolation panic" to describe a range of symptoms including panic, rage, loss of control, and complete breakdown. According to Toch, isolation panic can mark a dichotomy in the minds of prisoners—"a distinction between imprisonment, which is tolerable, and isolation, which is not." In 2003 psychologist Craig Haney concluded that 'empirical research on solitary and supermax-like confinement has consistently and unequivocally documented the harmful consequences of living in these kinds of environments.' Based on his review of the literature, Smith writes that "The overall conclusion must therefore be that, though reactions vary between individuals, negative (sometimes severe) health effects can occur after only a few days of solitary confinement. The health risk rises for each additional day in solitary confinement."ⁱⁱⁱ

This assessment was also voiced by a leading PA DOC official in the late 1990s. Thomas James, Special Assistant to then DOC Commissioner Martin Horn, explained in the *Shoats v. Horn* case that he would be concerned about the psychological damage to an inmate after only 90 days of solitary confinement and would generally recommend transfer to the general population after 90 days as a consequence. This is certainly not the case today, where the PA DOC is holding countless prisoners in long-term lockdown for years at a time.

This is even more alarming when one considers that when it comes to mental health the prison population is not representative of the general public. There is a greater frequency of psychological instability and disorder amongst the prison population already. A 2006 report by the U.S. Bureau of Justice Statistics claims that as many as 56% of state prisoners likely suffer from a mental health problem.^{iv}

HRC/Fed Up! has sent dozens of questionnaires regarding the psychological impact of solitary confinement to prisoners and the responses we have received confirm the severe damage that solitary has on individuals. Feelings of rage, suicidal despair, inability to concentrate, hearing voices and visual hallucinations, along with other adverse symptoms have been reported with alarming frequency. One man wrote that he “be hallucinating that everybody I look at always laughing at me and I’m always hallucinating that every officer I see is wearing a shirt that said ‘kill yourself.’” Some become so desperate that they engage in acts of self-harm and suicide attempts.

During a five-month span in 2007, three men committed suicide in the solitary units at SCI Smithfield.

In the summer of 2009, we received reports that one man tried to hang himself, another cut his wrists in the presence of a nurse, two more set their cells on fire, and one of these individuals also cut himself and then swallowed a razor. All of these acts occurred in the solitary units at SCI Fayette.

Later in the summer, Matthew Bullock successfully committed suicide in the solitary unit at SCI Dallas. Mr. Bullock had attempted suicide multiple times while incarcerated, and had his medications cut prior to hanging himself on August 24, 2009. Days later we received reports that guards had been encouraging him to commit suicide. He was then moved from a cell with a camera to a cell without a camera after he threatened to kill himself.

The suicide of Matthew Bullock provides a horrific example of how the psychological despair that is predictably generated by solitary confinement is reinforced by abusive and criminal behavior by PA DOC staff. During the past three years HRC/Fed Up! has amassed an enormous amount of evidence demonstrating a shocking and unsustainable pattern of criminal conduct on the part of PA DOC officials and employees. We have documented hundreds upon hundreds of cases of severe human rights violations, the large majority of them originating within the solitary confinement units. Prisoners in the solitary units throughout the state have consistently and frequently reported the following patterns of human rights violations:

- Physical abuse and assault; often prisoners are assaulted while handcuffed; other times guards in riot gear attack prisoners with pepper spray and stun weapons on trivial or fabricated grounds;
- Racial disparities in the solitary population, which feature an even higher percentage of people of color than the general prisoner population;
- Racist slurs and threats from guards, along with occasional brandishing of white supremacist paraphernalia such as nooses and mock “Klan hoods”;
- Inadequate, essentially non-existent, mental health care; prisoners are visited once per month at their cell doors by psych staff for 1-2 minute visits;
- Constant retaliation against those who file grievances and lawsuits;
- Systematic anti-prisoner bias in the grievance system, which according to the PA DOC official statistics upholds less than 2% of prisoner grievances;

In June of 2008 prison guards in one of the solitary units at SCI Camp Hill began depriving Gary Tucker breakfast and lunch after an excessive force grievance he had filed in January was finally rejected. This lasted for one week, and then they began starving him of all three meals. He was not fed for the next two weeks. The prison did not deny that he was not being fed. Sometimes they claimed he was on hunger strike. Other times they cited a non-existent policy that he was allegedly violating. Only after prisoners and outside advocates put enough pressure on Camp Hill was he fed—after guards in riot gear attacked him with pepper spray, assaulted him, and then took him to the infirmary where he gained 8 pounds in two days.

At the end of April of this year, guards in the solitary unit at SCI Dallas became aware of a report produced by HRC/Fed Up! on that institution. The report documented physical and psychological torture of a racist nature at that prison. The guards began depriving prisoners who had worked with HRC/Fed Up! of food and threatening them with violence. On April 28th, Isaac Sanchez was attacked by guards in riot gear, assaulted, pepper-sprayed, tasered, and left naked in a restraint chair for 20 hours. The following day six men in the solitary unit banded together and obstructed the windows to their cells, demanding an end to the abuse and the opportunity to speak with the media. Andre Jacobs, Carrington Keys, Anthony Kelly, Duane Peters, Anthony Locke, and Derrick Stanley were all attacked by guards in riot gear, beaten, pepper sprayed, tasered, left bloody and kept naked in restraints for hours.

Others have languished in solitary for years on end, subjected to the types of abuses just mentioned, and not told when or how they may be released. Jerome Coffey has spent 10 years in solitary despite not having a disruptive or violent misconduct history. Daniel Deiker has spent 37 years in solitary confinement because he was accused and convicted of killing a guard in 1973. He maintains his innocence.

Prisoners who file grievances and/or lawsuits, people of color, and those with mental health needs are the most likely to be held in solitary. Put another way: the primary purposes of solitary confinement are retaliation, the enforcement of racial discrimination, and the warehousing of the mentally ill.

Prisoners in solitary confinement are either on Disciplinary Custody status or Administrative Custody status. The first is for violations of prison regulations, the latter is a catch-all through which the PA DOC asserts the right to hold people in solitary for any reason it finds appropriate. Both are subject to widespread abuse.

Staff have no problem fabricating misconducts on prisoners they want to send to the hole, as staff versions of events are nearly always believed over prisoner versions. Prisoners are sent to solitary confinement for offenses as varied as assault to use of a curse word to sleeping through count. Rather than an extreme measure only used as a last resort for disruptive and violent prisoners, solitary is instead a first resort for any infraction or fabrication. Frederick Ray was given recently sentenced to one year of DC time at SCI Greene after guards accused him of helping other prisoners with their legal work for a fee.

Earlier this year, Angelo Maldonado was sent to the hole for 180 days after being written up for possession of contraband and lying to an employee. A guard in training had failed to log his property—a wedding ring and a rosary—prior to Mr. Maldonado's visit with his partner and her child. When he was returning from the visit a different guard was working. Since he did not see the property in the log, he accused Mr. Maldonado of having received it on the visit, and wrote him up for possession of contraband and lying to an employee after he denied the accusation. He was finally released after having spent 90 days in solitary. As a consequence of his being in solitary the parole board postponed his hearing.

Along with the absence of any effective safeguards to prevent this type of abuse, and the excessive cruelty of sanctioning people to solitary for trivial reasons, there are those held on Administrative Custody. Prisoners held on AC status are basically warehoused without the opportunity to challenge their placement. They are provided no guidance as to what they can do to re-enter general population, and oftentimes they are not even told why they are in solitary or are given inconsistent reasons every time they are up for periodic review.

The PA DOC claims that AC status is not punitive, but is necessary to provide security. Prisoners on AC status are said to be a threat to themselves or others. Yet the conditions for those on AC status are essentially identical to those for prisoners on DC status. Prisoners on AC and DC status are only granted one non-contact visit per month on the weekdays with immediate family only. Each visit is limited to a maximum of one hour.

Another problem with the notion that solitary is necessary for security reasons is that there is no evidence to support this argument. A 2003 study of facilities in three U.S. states concluded that "the effectiveness of supermax prisons as a mechanism to enhance prison safety remains largely speculative." Another study stated that "the arguments given on behalf of such facilities are few in number and almost embarrassingly brief."

When a state tortures thousands of its citizens every year there are consequences, whether or not these are recognized or fully appreciated. One only has to hear a few of the stories mentioned above to understand why nearly 1 of every 2 people released from a PA DOC prison are re-incarcerated within three years of their release.

Solitary confinement is a core feature in a prison system that is anything but correctional, playing an integral role in the continued expansion of a dysfunctional, budget-draining system that leads the nation in population growth.

The way forward is to acknowledge the problem for what it is and call things by their right names. Torture is torture, it is illegal and must be abolished. Toward this end an investigation into the use and effects of solitary confinement in the PA DOC needs to be undertaken. This investigation needs to ground itself in interviews with hundreds of former and current survivors of solitary confinement and their family members; the impact that solitary has on parole eligibility and release along with recidivism rates needs

to be considered as well. We can safely and swiftly reduce the solitary population. The state of Mississippi safely reduced their solitary population from approximately 1,000 to 150 after the MDOC decided to cooperate with prisoners and lawyers representing them in a class action instead of fighting them.^v

After the Camp Hill uprising in 1989, Senator Greenleaf commissioned a study. The study issued a report with a series of recommendations, including recommendations to alleviate overcrowding, establishment of a public advisory committee, and the separation of non-violent offenders from violent offenders. Another recommendation was to build more solitary confinement units in order to keep targeted prisoners locked in solitary indefinitely. This last recommendation was the only one that was followed.

The report also quoted then-Commissioner David S. Owens, who stated that “We cannot build our way out of this problem.” There were 22,000 prisoners at the time. Today there are more than 51,000. The Commonwealth is still attempting to build its way to public safety, and it is not working.

We can be certain that the PA DOC will deny that anything resembling torture or abuse is occurring inside the prisons. This is as predictable as it is unconscionable. Until the PA DOC agrees to acknowledge the human rights crisis represented by the widespread use of race-based torture it will continue to be a part of the problem, an obstruction to the solution, and a threat to the health and safety of all Pennsylvania residents. It is our collective responsibility—citizens and legislators—to ensure that the criminal legal system operates in accord with human rights law, and I look forward to working with you as we get serious about this project. Thank you.

ⁱ “Hellhole,” Atul Gawande, *The New Yorker*,

http://www.newyorker.com/reporting/2009/03/30/090330fa_fact_gawande

ⁱⁱ Stuart Grassian, “Psychiatric Effects of Solitary Confinement,”

<http://www.law.wustl.edu/Journal/22/p325Grassian.pdf>.

ⁱⁱⁱ *The Effects of Solitary Confinement on Prison Inmates: A Brief History and Review of the Literature*, Peter Scharff Smith, 2006, University of Chicago.

^{iv} “Mental Health Problems of Prison and Jail Inmates,” Doris J. James and Lauren E. Glaze, *Bureau of Justice Statistics Special Report*, September 2006.

^v “Beyond Supermax Administrative Segregation: Mississippi’s Experience Rethinking Prison Classification and Creating Alternative Mental Health Programs,” Kupers et al., *Criminal Justice and Behavior*, online copy of article available at: <http://cjb.sagepub.com/cgi/content/abstract/36/10/1037>