

Solitary Watch

Criminal Justice Issues and Prisoners' Rights

<https://solitarywatch.org/2011/09/19/nyc-bar-association-issues-report-on-the-brutality-of-supermax-confinement/>

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by [Jean Casella and James Ridgeway](#) | September 19, 2011

The New York City Bar Associations Committee on International Human Rights has turned its sights on the American prison system, and produced a concise, well-documented, and important report on solitary confinement in the United States. As the reports authors write:

The policy of supermax confinement, on the scale which it is currently being implemented in the United States, violates basic human rights. We believe that in many cases supermax confinement constitutes torture under international law according to international jurisprudence and cruel and unusual punishment under the U.S. Constitution. The time has come to critically review and reform the widespread practice of supermax confinement.

This Report first describes supermax confinement in the United States, then surveys the surprisingly limited role of courts in reviewing that practice and concludes with a number of recommendations that suggest the outlines of the reforms we believe are needed. These reforms should encompass not just the administration of supermax confinement in state and federal prisons, but also the legal framework within which this practice is reviewed by courts.

Courts in recent years have largely deferred to prison administrators with regard to the implementation and expansion of supermax confinement, stretching the limits of constitutionality so that supermax is largely immunized from judicial review. Indeed, as long as a prisoner receives adequate food and shelter, the extreme sensory deprivation that characterizes supermax confinement will, under current case law, almost always be considered within the bounds of permissible treatment.

The report takes a stand for all prisoners in long-term solitary confinement, arguing that the practice is both inhumane and unconstitutional:

The unmitigated suffering caused by supermax confinement, however, cannot be justified by the argument that it is an effective means to deal with difficult prisoners. The issue, we believe, is not whether supermax achieves its purposes or is effective at controlling and punishing unruly inmates. Instead, the question is whether the vast archipelago of American supermax facilities, in which some prisoners are kept isolated indefinitely for years, should be tolerated as consistent with fundamental principles of justice. Even prisoners who have committed horrific crimes and atrocities possess basic rights to humane treatment under national and international law. Although the Constitution does not mandate comfortable prisons, it does require humane prisons that comport with the Eighth Amendments prohibition against punishments that are incompatible with the evolving standards of decency that mark the progress of a maturing society or which involve the unnecessary and wanton infliction of pain. More recently, the Supreme Court stated that [p]risoners retain the essence of human dignity inherent in all persons. Respect for that dignity animates the Eighth Amendment prohibition against cruel and unusual punishment. Supermax confinement as extensively implemented in the United States falls short of this standard and must be substantially reformed.

While acknowledging that Supermax confinement has become so embedded in the culture of prison administration that it will take a significant effort to reverse this abhorrent practice, the report ends with a series of recommendations for immediate reforms.

(For more background on solitary confinement and the law, see our new [fact sheet](#) on the subject.)

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Jean Casella and James Ridgeway

James Ridgeway (1936-2021) was the founder and co-director of Solitary Watch. An investigative journalist for over 60 years, he served as Washington Correspondent for the Village Voice and Mother Jones, reporting domestically on subjects ranging from electoral politics to corporate malfeasance to the rise of the racist far-right, and abroad from Central America, Northern Ireland, Eastern Europe, Haiti, and the former Yugoslavia. Earlier, he wrote for The New Republic and Ramparts, and his work appeared in dozens of other publications. He was the co-director of two films and author of 20 books, including a forthcoming posthumous edition of his groundbreaking 1991 work on the far right, *Blood in the Face*. Jean Casella is the director of Solitary Watch. She has also published work in The Guardian, The Nation, and Mother Jones, and is co-editor of the book *Hell Is a Very Small Place: Voices from Solitary Confinement*. She has received a Soros Justice Media Fellowship and an Alicia Patterson Fellowship. She tweets @solitarywatch.

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by [Juan Moreno Haines](#)

October 25, 2022

by [Solitary Watch Guest Author](#)

October 13, 2022

by [Vaidya Gullapalli](#)

September 29, 2022

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I know someone who was held illegally by a group home led by born again fanatics. new to canada, the 17 yr old didnt know her rights and could have left at any time. however, her parents paid these freaks to sort her out because she got expelled from private schools for doing the heinous crime of smoking pot, drinking beer and chasing boys. pretty normal stuff by today's standards. since she was not sexually abused, nobody in ontario will listen to her. shes one of the few who tell the truth and she gets crapped on. now in her late 40s, she shut down for the 10 months she was forbidden to speak or make eye contact with others she drank for a decade and almost lost her high intellect by choice. they destroyed her and she needs help. she is half american, hates canada and had to teach herself to read and write again. can you help her? oh, she was in a home which was only for young offenders. the only offense was stupid rich parents and greedy googie christians(sarcastic) who slurped and gobbled up the money they recieved to reverse her mind and turn it upside down please please HELP!

@Carl: As always a surprisingly frank assessment of the penal system but very true.

As for the peer pressure that you and other men of honor felt while working in the Department of Corrections which we all know is such a close nit society, I give you this quote:

On Liberty, John Stuart Mill

Society can and does execute its own mandates, and if it issues wrong mandates instead of right, or any mandates at all in things with which it ought not to meddle, it practices a social tyranny more formidable than many kinds of political oppression, since, though not usually upheld by such extreme penalties, it leaves fewer means of escape, penetrating more deeply into the details of life, and enslaving the soul itself.

Protection, therefore, against the tyranny of the magistrate is not enough. We need protection also against the tyranny of the prevailing opinion and feeling, against the tendency of society to impose, by other means than civil penalties, its own ideas and practices as rules of conduct on those who dissent from them.

I guess there are theoretically criminal penalties for abuse of prisoners but what is the batting average of those that commit these acts. Lets face it there are few examples of them being held accountable.

@Carli agree 100% and that is whyb our forefathers made a constitution. Because people are evil. I have heard the numerous stories from prisoners of what they witness and endure.

The very reason I ended up in to prison reform is because of helping a prisoner incarcerated on an illegal indictment from him I learned of civil rights violations, health issues he contracted H-Pilori a very painful gastrointestinal disease which is from drinking contaminated water a disease unique to 3rd worldcountries. and his witnessing COs killing a subdued prisoner, which begat more stories from yet another prisoner that contracted Hep-B from COs putting feces and urine in prisoner food. But the worst cruelty is this isolation, driving humans mad while the COS and admins watch and antagonize. They can not perform the simplest kindness or just do their job caser in point Tommy Silverstein will wait up to 3 weeks for his mail. That is the a big big thing for an isolated individual. In the 1800 isolation was done away with for its cruelty now is over used and the expense is outrageous more expensive the money spent not on the prisoner but staff, equipment, and all the beaurocratic bull that goes with it, I have had to talk to 10 people that rule over Tom to just get a redundant form letter from Warden Davis. I am sick of it I have written governors Senators etc etc. And everyone needs to do the same tell this countries elected we do not want isolation and that due process is the law.

The Age of Brutality inside American Prisons published on the web:

Somewhere between 1970 and today, clocks in America took a turn back in time and back to the days of the late 1800s when lynching a person from the nearest tree or tar and feathering a person and horse whipping a man was an acceptable social practice to punish offenders and entertain the public of these public atrocities. Through the evolution of empowering men in government to impose harsher punishment through longer incarceration periods, more frequent death penalty executions we have become a society that believes in strong and harsh social justice allows the police to beat a helpless man to death, the message was clear; be tough on criminals and lock them up.

Life was not always this way as I remember it when younger and enjoying the 50, 60 and even the early 70s. Life wasnt perfect back then because we had civil strife between black and white and men and women but that was eventually worked out through the civil rights laws enacted because of hard work by people who believed in justice for all. Today, those forces of justice seem to have been eroded to almost nonexistence and overpowered by evildoers as this country is engaged in a most brutal and violent manner of living our daily lives. Mass executions of innocent people and premeditated homicides of family members are today the norm if you read the papers or watch television. Our morality appeared to have disappeared into thin air with no chance of it ever returning. Society, in a most distressing manner, accepts these as moralities and goes on condoning these acts. The key to ending this brutality and senseless killing is out of reach. The solution would be to repeal many laws enacted for the pretense of protecting the good of many. Instead it has had a most negative impact for all.

America holds today 25 per cent of the worlds prisoners and because it has grown beyond those 2.4 million people incarcerated, it knows not what to do with them except to continue containment execute those on death row and provide them the most harsh living conditions possible to avoid any ideas of coming back to prison. Herein lays the oxymoron of this philosophy. These incarcerated persons have no other place to go once released but to go back to prison. They are not given any real life skills to get a job; their family members have either disowned them or given up on them because of the financial drain they created for legal fees and other things. Social, economic and spiritual support is severely lacking as society is unforgiving to help them and all in all, they have become a higher liability to society because while in prison, they were taught how to be better criminals inside the prisons by other criminals, they resort to doing what they do best; break the laws and return back to prison. Compounded by the closing of state hospitals because of a strategy that designed prisons to deal with these mentally disabled persons and mix them together with the criminal elements of a prison, they are doomed to die from either their illness, suicide or homicide thus giving society the satisfaction that they are being handled by others rather than accept responsibility for doing so themselves.

Many years ago, a strategy was drawn up by countless rich men who devised a plan to support politician who would carry out their desires and messages to enrich their wealth and control other peoples souls. These men and women are our leaders who make the laws, ignore the laws and look the other way when laws are broken. These rich men knew that prisons would be a good business to have when these laws were broken and started a private enterprise to build prisons to keep these lawbreakers. Today, with the governments consent and assistance, private prisons are thriving and slowly taking over the governments role of incarceration but not for retribution or rehabilitation but for profit.

Profit that adds to the brutality of how prisons are operated and how the publics perception of reality inside these prisons exceed the comforts of their own living rooms and turning the public against the prisoner wanting to starve them, to deny them medical for early natural deaths, to deny them protection against prison brutalization and most of all, to show the rest of the world, America is the capital of the world when it comes to running and making prisoners out of good men and women through the War on Drugs that has filled up our prison systems with humanity stacked on top of each other creating another madness that is uncontrolled and destined to explode right back at the publics face for neglect and lack of interest in how they are operated as a tool of the government set up by evil men. Life itself has been marginalized to be meaningless. A death by assassination, suicide or even natural inside a prison is no longer a tragedy but a moment of jubilation. The publics emotions of hate and hang em high attitudes has infiltrated the courts, the prosecution and the penal system giving a prisoner no chance of surviving or changing his ways. They are doomed to remain in prison and die there under the current social justice developed by a lynch mob many years ago and revived today for the purpose of brutalizing mankind for the anger of so many who are now possessed with evil rather than the good that built this country centuries ago.

So sad to be right on something this tragic.. Ilike I said before, prisons have changed, administrations have changed, and correctional

officer have changed. most of all the prisoners have changed as today, the mentally ill are mixed with others giving them no hope to function or cope within an environment that is sensitive to their treatment needs and compliance with medication. The problem is nationwide and not just California.. some states just handle it better. thanks for the article.. it was very informative and reassuring that I have followed the right path to accurate information and practices inside our prisons.

Carl this confirms your not alone: Excerpts:

http://realcostofprisons.org/blog/archives/control_unitsshusupermax/index.html

Scroll down to this rather long article.

March 06, 2008

MA: Breakdown: The Prison Suicide Crisis (3 articles)

3 articles in the Boston Globe

BREAKDOWN | THE PRISON SUICIDE CRISIS

A system strains, and inmates die

December 9, 2007

Part 1

So common has it been to find a man with a makeshift noose around his neck that some correction officers have taken to carrying their own pocket tools to cut them down. The tally of suicide attempts and self-inflicted injuries 513 last year and more than 3,200 over the past decade tells a story of deepening mental illness and misery behind the walls of the states prisons, despite repeated calls for better training of officers and safer cells for mentally troubled inmates.

You're taking people who are vulnerable and can't cope in society, said a psychiatrist who consults to prisons and is an assistant professor at University of Massachusetts Medical School, and putting them in the worst situation imaginable.

The Department of Correction guards the details of these events in secrecy, revealing little to the public, or even to the families of the suicide victims.

Part 3

On a damp Saturday last fall, he collected a stack of papers and notebooks that chronicled his decade as a state correction officer and set them ablaze in a cemetery near his home.

He had liked his first eight years at the prison, but his last two had turned hellish. He hoped the graveyard bonfire would exorcise memories of his work behind the walls of the states toughest prison.

Especially his memory of what happened there one night in late 2000.

Shortly before 10 that November night, a deeply disruptive inmate lay shackled to a concrete slab in a cramped cell. As he stood watch, a captain and three other officers swept in, the captain grabbing, as he went by, a foam cup that he had been using to catch tobacco juice and sunflower seeds.

He watched as the captain tilted the cup over the mouth of the prisoner. Sickened, he turned away. But he could hear the parting admonition to the 33-year-old inmate: If you don't behave, my officers will pour [excrement] down your throat. Because I can do anything I want to you.

The captain was just sadistic. He thought this was the way to rule. Sometimes you have to use force in the prison. It's just the dynamics. But the way I was schooled, once you're in restraints, it's over.

Another officer assigned to the control room and said he could see him tilt a foam cup over the inmates head.

What happened that day was totally wrong. You're in four-point restraints. You can't do anything. That's torture.

Two months later, the inmate hanged himself with elastic from his underpants and bed sheets.

The larger point is hard to miss: Some correction officers, he said, are unfit to deal with the mentally ill or deeply troubled inmates who are increasingly their charge. The result is an incendiary dynamic between inmates and officers, a climate ripe for abuse.

The inmate was restrained. He had no way to defend himself, said one of two officers who reported the incident. It would be akin to a police officer raping somebody. There's no gray area there.

The treatment of this inmate who was in four-point restraints for nearly 40 hours over four days is one of the most flagrant of the cases of abuse of inmates whom prison officials or prisoner advocates say had acute mental problems.

But it is hardly an isolated example. A Spotlight Team investigation into a recent surge in prison suicides and suicide attempts found other cases in which correction officers, with scant training in how to handle the burgeoning number of mentally ill in prison, brutalized, mistreated, or neglected inmates.

Indeed, as prisons increasingly become the asylum of last resort for the mentally ill with the closure of state hospitals and the deinstitutionalization of their residents' desperation, frustration, and violence are rising on both sides of the cell door.

@Alan I submit.. correctional officer do get to go home and they do have flexibility in health plans. I was writing mainly about the psyche but yes, a reality is that the officer can and does go home where the environment is somewhat less stressful or is it??

For years, I felt that being inside a prison was safer than a shopping mall or public 7 11 store but everybody to his own opinion on the conditions of the free world. One step at a time I guess.. I hope the right people are listening and heeding the advice of those who know best for this situation.

@Carl: Read this story Fighting the Ninja it is a graphic account of the unsanitary conditions of prison. The Ninja is apparently a convict term for AIDS a silent killer.

<http://www.pen.org/viewmedia.php/prmMID/2503/prmID/1622>

I meant to write they collude consciously or unconsciously to melt out societies punishment. I tend to jump the gun because I'm at work.
:)

My short story (I realize it is nothing compared to a supermax but it was a daunting life for a 9-17 year old.)

<http://solitarywatch.com/solitary-voices/memoirs/in-solitary-at-las-juvenile-hall/>

@Carl: Funny you used the term gauntlet I used it as well to describe prison but from the point of view of a prisoner the gauntlet is lined with predatory inmates and rouge guards. Together they collude consciously or unconsciously to melt out society's punishment. All the points you point out are true for the prisoner as well but he never goes home or relax his guard for a moment. The health concerns are worst for inmates they have to live 24/7 in the infected environment like tethered animals in a slaughter house. The stress drives many crazy and others to commit seemingly crazy violent acts. Did you read my short memoir in the voices from solitary section on here? LA Juvenile Hall circa 1962 but it goes on to Preston. Or my brother's tale of the Deuel Vocational Institute 1967 riot? It is not only the guards that suffer but then I realize the difference between the two groups. One lives the life for \$s while the other is forced to live it to make society feel better when someone lights up a joint. Vindictive just like the crowd at the republican debate when they asked Perry about the death penalty. You would think they were responding to the goals of their favorite team not the taking of a person's life. Sick. But you're correct in what you write.

@C: Yes I thought it was CC but the same goes for you and BJ. I too tried to stay away but then Carl's admissions are too good a story. Up until this point it was never openly admitted that guards and the administrators are a problem and his words validate all Tom has written in the past. I hope he retains his hope a bit longer. Jan is right around the corner. :)

@Alan T and I are fine. Just busy, and prefer to stay off the net it's too depressing and the fruitless jabber is just that unproductive. When there are things that need to be done. I am sure you are thinking CC but it's just C a different person altogether. With that I will tell T hello for you in my daily correspondence.

The most interesting part about solitary confinement or incarceration in general are the dynamics on both sides of the view. Solitary Watch does an outstanding job in bringing in the psyche of those imprisoned and rightfully so..they represent the prisoners' needs as victims in a most cruel setting. I have often tried to balance the two sides of incarceration and look at what happens to the other side when they work inside a prison and how it impacts the workers..So I wrote this:

Every article you read is written about the change of mindset in prisoners who are incarcerated and placed inside these dark places called prisons. Not much is really talked about or even written about the behavioral modification of staff or correctional officer specifically and that is sad because there is so much to learn about the human mind when put into a place such as this. Society has made it clear that through the numerous studies provided by state universities and private grants, that the environment that exists within these prisons influence or affects the human psyche more than it is led up to do as we all agree that the prison world is an isolated world. Isolated from the norms of society and where rules and cultures oversee the daily events dictated by power, greed and control.

Every day, the warden and those employees paid to work closely with these convicted felons are faced with challenges that include life and death situations as well as routines that are common inside a small town or city resembling some sort of social order but different none the less. The power is between three cultures that exist behind the walls.

The first culture belongs to the prisoners who fall into the category of predatory and manipulative. These groups consist of violent and non-violent offenders but share common ground on their culture and their code to survive inside a prison. It is true that many join gangs based on their ethnicity or race to receive personal protection from the masses and do so to reap the benefits of belonging to a gang. Whether violent or non-violent they find a position within the cultural phenomena that gangs are a reality for the administration to deal with daily. The second culture is the warden and executive staff that oversees the entire prison operation and has to impose those policies and procedures to maintain a firm control over behaviors, spending and threats. The last culture, no less the least, is the culture that exists within the correctional ranks that enforce those rules and policies to the point they have to put their lives on the line to gain compliance from those who have already demonstrated a will of anarchy and refusal to comply with societal rules and now prison rules.

So these books are written and illustrate these cultures of the imprisonment of men and women behind the razor wire, seldom does the writer include the changes that impact employees that work there as well. All employees who work within the razor wire and high walls share two things in their jobs; fear is constant and stress or anxiety is a part of their daily routine that changes them over time. Daily challenges of their ability to control and handle their work environment is conducted by the prison population to see if they can manipulate them into working for them thus the attempt to corrupt the employee is first most to gain the upper hand.

Just like prisoners coming into the system are forced to show their paper to show what kind of person they were on the outside, so does the employee receive similar challenges to see what kind of person they are and what makes them tick. The prisoner looks for weak spots in both the psychics of the person and the physical abilities to carry their own weight.

Perhaps this isn't the most dangerous job in the world but it ranks right up there with being a combat soldier, a fire fighter or a street cop that are equipped to properly defend themselves against harm or danger. A correctional officer, unless he is armed to do a transport or an escort that is pre-planned, is never armed except with a radio, perhaps a canister of mace or just a pair of handcuffs. Maybe, that would make this the most dangerous job in the world.

Walking into the gates of hell inside these dirty and un-kept prisons is risky to say the least. First the actuality or possibility of being physically harmed at any time during your shift is a reality to where you work. Second, the filth and the dirty air carries with it disease and contamination that you would not want to bring home to your family or friends. And last, your mindset has to adjust to elevate your survival skills over those who are preying on you to make your life a living hell while you are at work. As the days go by, you slowly learn the games they play and the appropriate moves to counter their tactics as you grow with experience and learn that almost everything they tell you is to benefit them one way or another. It is never about the good guy but most seldom it is about him the prisoner.

As you walk the gauntlets inside the yards and corridors, you will get bumped, hit, kicked, bitten, spat on and even stabbed or hit with a flying object or prison made dart. The weapons are abounding inside such a place as any object can be made into a deadly thing. As the mentality changes from the neutral mindset you came in with, you are now formulating a new psyche that brings forth an us versus them attitude that must endure the entire shift or fall victim to their ploys to compromise you or even damage you if the opportunity arises.

Within months, you have adapted to the new mindset and are determined to treat them as lesser humans than you thought of them before you donned the uniform and the badge. You see and you experience their brutalities towards each other and your peers and you decided that you won't tolerate that kind of abuse from them or anyone else. Thus you are now thinking of these prisoners as the lowest form of human life there is to elevate your own status as a means of survival.

This change in psyche can occur once or twice or even more than twice in your career. It depends on your social awareness skills and your ethics and morals that you grew up with. Many times during your career you will fall into these pits of transformation to another mindset and it takes another person to bring you back to that baseline of behavior you have found to be suitable for this kind of job as you struggle to make it for the next twenty years or so. Not every person reaches the extremes of these different levels of conduct and many never reach the level of misconduct but as a whole entity and one work group, we all suffer the same consequences as a few step out of

line and show the world that working inside of prisons can corrupt your thoughts, your heart and your mind if you let it to be that way. The thoughts of death were omitted on purpose although I know now with the new breed of violent prisoners being incarcerated throughout our prison systems; they have become bolder, stronger and more likely to kill rather than to inflict serious injury and maim the person for life. This trend is currently contributed by the overcrowding of prisons, the reduction in meaningful programming and the severe shortage of staffing these hell holes to keep these officers safe while at work. This most dangerous trend is growing and there seems to be no answer to this problem as life inside the penitentiary is becoming an expendable and a less valued treasure to those who run the prisons on both sides.

Another aspect of this affect is the impact of this stress and fear absorbed by these correctional workers as they pass it on to their families and friends. Raising children and demonstrating those qualities of sound parenthood requires certain capabilities that can often be impaired by these deep physiological driven emotions or influences in our lives. The fact that many employees possess an element(s) of post-traumatic stress creates another concern when it comes to raising these children are directly impacted or influenced by their parents actions, thoughts and emotions.

Although the fear that exists within the workplace or job is a genuine element that keeps them on their toes and enabling them to sense and respond to the dangers, this can spiral out of control and create other factors in their lives such as anxiety disorders, panic disorders, obsessive compulsive disorders and social anxiety disorders, it must be managed and dealt with in a most positive manner.

Today, with the massive growth in the prison systems nationwide, there is a genuine need to a solution to the mentality that locking the masses of prisoners up has no affect on the employees and families. This is becoming a most urgent matter as times have changed and disasters are more common and frequent in severity.

The most fear instilled in the human mind is not those influential forces known to man such as the use of nuclear weapons on other humans or even those ever destructive natures wrath that creates earthquakes and tsunamis but the thoughts and ideas that exist in the mind. The dangers of fear and stress loom over us everyday and there is no relief in sight as these prisons are overfilled with masses of human mankind that co-exist in the same hell hole as the employees.

It is likely that the only conclusion reached with this mass hysteria to incarcerate every one that breaks the law is the fact that we are filling and overwhelming our prison workers with more unneeded trauma and stress with no current solution to the trend and create side effects within our free society to create more drug addicts, more alcoholics and more PTSD patients that seek help but have no state offered or corporate support groups to help them survive this negative ordeal and suffer greatly as they pass these traits on to their children and other family members.

Just to balance some of the thoughts on this page and others people are people whether incarcerated or free, people have feelings, emotions, stresses and fears. This entire prison setting is unnatural and uncontrolled at times but those who kickstart it [both sides now] just to have fun or to retaliate against anyone who does not go along with their rules create the hate and abuse. This is why they need to rotate staff out of the SHU to discontinue these cliques of officers bonding together in a us versus them battle behind the scenes. It does happen..it may not be right but it is reality of what it is.

@C I miss your wit and your silence has had me worried about you. Give my best regards to Tommy. I think he would appreciate this quote, mixing the mad with the bad a quote from Dr. Torrey that Carl posted above this practice is an obvious effort by cruel men to spread the madness.

@Carl

I do not believe that any two men, on what are called doctrinal points, think alike who think at all. It is only those who have not thought that appear to agree.

By Thomas Paine 1791, The Rights of Man

Your input is welcome and given thought to I am sure this sites management is taking note of your very good ideas and will promote those they feel are workable. I am glad to see your thinking.

In closing I like to think in your case this quote is warranted.

No man, who continues to add something to the material, intellectual and moral well-being of the place in which he lives, is left long without proper reward.

Booker T. Washington

Having worked inside a SHU or SMU I fear it is the lack of control on the uniformed side that creates the chaos and the deliberate interruptions that warrants the use of force under false pretense the prisoner started it or asked for it based on his actions.

Please read this:

http://www.associatedcontent.com/article/8157731/anecdotal_writings_of_solitary_confinement.html?cat=44

It is controversial in nature but then,, solitary confinement and its makings are controversial as well..enjoy the read.. its purely anecdotal in format but truthful from the eyes of an old retired correctional administrator.

Carl Toersbijns, I concur with your last posting, especially about the over-site committee: California does not have one, they do not want this type of committee because they would perhaps need to answer to someone other than the general line of authority. For instance, the administrators, officials, sgts, and so forth. Either way one may choose to look at this situation here in California and else-where it is not good.

Not all correctional officers believe in abusing inmates, but the ones that does are rewarded the most. When people come out of the academy, some of them have not even finished high school; second, most come in with their own prejudices, and third, most come in just for the pay-check, they could care the least as to what happens with the inmates. In other words, we have a crisis within the SMU and the SuperMax prisons, we have people that are willing to die. These people are willing to die because of the cruel treatment, no medication

for the mental ill, no medical workups, and above all, the inhumane treatment of sleeping nude, some in diapers as if they are infants, and some just going insane and killing themselves, but then public service is a wonderful tool.

Here is something that hasn't been thrown out there by anybody from the administrative side: an oversight committee for the SHU or SMU. This committee would be a five member committee made up of 1 medical doctor 1 mental health specialist 1 deputy warden 1 case manager and 1 reviewer the 4 would do the actual review and the reviewer an independent position not on contract or directly supervised by the warden shall be a tie breaker to order a new investigation or concur with findings.

Many police department use these committees to reduce their use of force incidents and bring more transparency to the area related to best correctional practices and the use of force.

It would work best on only those cases where abuse or torture is suspected in the documented use of force or any other incident e.g. attempted self-mutilations, assaults on staff or another prisoner otherwise the committee would be burdened beyond its capacity to regulate the process.

The committee would meet twice a month and review the use of force logs, mental health logs for serious incidents and review associated documentation provided. This committee shall have the power to ask for additional information if the review warrants a closer look at circumstances reported or observed.

Solution: 99 % of the written Use of Force packets are reviewed by shift supervisor, chief of security, deputy warden and then the warden in most cases. If the packet contains information or injuries not consistent with the reports then this case would be flagged for the oversight committee to review and do a finding. Standards used for rationale of review should include best correctional practices, policies and procedures, state and federal statutes including the ADA and other civil rights articles, the use of force continuum, photos, reports and relevant documents e.g. disciplinary, mental health status, medical conditions etc.

The presence or creation of such an oversight committee with the power to request and amend existing investigative packets and initiate an internal investigation into staff behaviors will reduce abuse, excessive force, torture, and other mistreatment by a significant percentage providing a better environment for both staff and prisoners.

If you think this is a good concept build on it and pass it on. public service is a wonderful tool.

That's okay, I have always believed that when two or more people disagree, a better way is found to resolve the problem thus I will always welcome your criticism or anyone else for that matter.

It is my firm belief that we do not and should work our laws and our judicial systems to an international audience or court standards our judicial system is not broken but it too needs a reform as it has gotten away from judicial expectations by the public. Sadly, the courts, like the prisons have individuals who use and abuse their power for reasons that serve politics rather than justice. I think this applies throughout the USA. Secondly, every appeal region has a different point of view on prison management. Take the ninth and the seventh districts. Day and night. So although our system is not perfect, we need not take an international approach on the rule of justice and applicable laws to incarceration.

I don't disagree but the courts, in the past and present have the power to impose transparency into the practice by the order of decree that specifically assigns a court monitor to oversee and regulate compliance with court expectations or findings. This limited role is on the judges not the corrections agency that may be guilty of mismanagement or even hiding their practices therefore limiting insight or wrongdoings found to be corrected or ruled on. In addition, with so many lawsuits filed in courts today regarding the 8th amendment, you would have thought that by now, a standard for living conditions in a confinement place would have been set by now. This leaves a void for abuse and misunderstandings as every state has their own standard and may be substandard until ordered by the court to revise and amend the practice.

Agreed thus we agree the judicial system should seek a means to ensure compliance with policies written and approved for best correctional practices. This would take a test case going to the Supreme Court regarding the actual practice of the SHU and SMU concept. I think that is one making its way around the corner as we speak.

Yes, point taken. Therefore I suggested short term SHU incarceration with more timely reviews for physiological, psychological and physical reasons. I personally have observed decompensating behaviors within 60 days of placement in most cases but some can hang in there for much longer but this is where I worry. We should not push the human mind to this point of breaking, I am not a supporter of behavior modification methods used in prison and the presence of competent mental health providers on duty daily should be a requirement. Perhaps a few are trained properly in this technique but many will abuse hence our situation today. There used to be a training standard before anyone could work a SHU or SMU plus one year minimum experience. Today they can go to the SHU directly out of the academy with no idea of the environment they walk into creating a us versus them ideology that prevails daily on every shift. I don't know how to respond to this. Progress in prison management has failed us, we have been backsliding since the late 90s and the closing of the state hospitals has contributed to the difficulties of managing prisoners who are disabled and impacted severely by prison rule violations. Once they come up with a standard definition of humane, we might be able to extract the reasonable versus the torture aspect of this discussion and problem.

A prison, mixing the mad with the bad a quote from Dr. Torrey is complicating the process of prison housing assignments and treating both the SMI and the behavioral prisoners inside the SHU. The need to keep the two apart would make a more humane environment for those housed there free from such infringements (psychological) that adds to the madness of the SHU in longer periods of time. Housing a mentally ill prisoner next to a non-mentally ill person has negative consequences and adds to the time where their coping mechanism suffers in an accelerated form. This is purely anecdotal in nature and based on my own observations inside a SMU for almost 7 years working.

It is my strong belief that if the SMI are treated, medicated and provided the required attention for such disabilities the placement into a SHU or SMU would be limited based on compliance and orderly behaviors by those not mentally ill.

Bottom line.. it is time to review these placements and save those human minds that have been inside there too long. SHU mission should be short term and not long term. I agree long term is cruel and wears a man or woman down to struggle for life as we know it. California has a unique opportunity to re-write the book on this most restrictive housing practice and it should do so with the mentally ill in mind or the causes of being inside there as a sane person but impacted by the environment to the point they too become mentally ill. This is what I advocate.. Change the way SHUs are managed and how prisoners are treated once they are in the SHU. I think we agree that under the

most difficult situations, segregation is likely to be the most effective management tool but along with that, goes the responsibility to keep the file fresh, keep the prisoner informed and make decisions that are both security and in a clinical sense as this environment should be guided by the mental health milieu.

But remember I am just an old correctional administrator, retired and so institutionalized, it impacts my thinking as well..

@ Carl I disagree with your take here is why, they write:

We believe that in MANY cases supermax confinement constitutes torture under international law according to international jurisprudence and cruel and unusual punishment under the U.S. Constitution.(Many not all.)

The reportsurveys the surprisingly limited role of courts in reviewing that practice(So the courts have had a limited role in reviewing the practice and implies there is a need for more review.)

Courts in recent years have largely DEFERRED TO PRISON ADMINISTRATORS with regard to the implementation and expansion of supermax confinement, stretching the limits of constitutionality so that supermax is LARGELY IMMUNIZED FROM JUDICIAL REVIEW.(we already established this was a problem in our earlier conversations.)

The unmitigated suffering caused by supermax confinement, however, CANNOT BE JUSTIFIED BY THE ARGUMENT THAT IT IS AN EFFECTIVE MEANS TO DEAL WITH DIFFICULT PRISONERS.(I know there are predatory inmates that I would not want lurking around my cell. But over 5, 10, 20, 30 or 40 years their threat is diminished.)

Although the Constitution does not mandate comfortable prisons,IT DOES REQUIRE HUMANE prisons that comport with the Eighth Amendments prohibition against punishments that are incompatible with THE EVOLVING STANDARDS OF DECENCY that mark the progress of a maturing society (So even if the courts had ruled that these prisons were reasonable standards shift over time. I also believe we can no longer afford the cost in gold or the human suffering before things implode)

Reviewing the NYC Bar Association article on the policies of supermax confinement of difficult inmates it is alleged that it basically violates human rights and constitutes torture. It goes on to cite international jurisprudence and uses the U.S Constitution 8th Amendment as a reference point to review and reform the practice. I think it is wrong to collate all supermax facilities into a category of them violating human rights and torturing persons as well as saying all these facilities violate the 8th amendment of cruel and unusual punishment. Many of those practices entailed in operating a supermax facility are sanctioned, clearly identified correctional practices approved and mandated for accreditation for an American Correctional Associations (ACA) audit. Standards that have withstand the test of court cases and deemed to be rational and reasonable in nature as well as practice.

Whether or not the courts are suggesting or recommending reforms is up for debate. Certainly, many practices have been reviewed by the courts and have withstood the test of being constitutional in practice. The much larger question is for the courts to order the Department of Justice to investigate to verify or validate individual cases of alleged abuses or tortures according to the color of law statutes as there are weak representations of such investigations and prosecutions. A supermax by design and policy is a valid management tool to handle the most difficult prisoners safely and orderly. There are individual cases of mission creep that have diluted or contaminated the original design and operational goals or methods that have been curtailed, altered or amended without proper judicial review or statutory compliance that has created the inconsistencies today.

Again, recent court reviews have indicated sanctioned practices regarding the use of such confinement and has not indicated in an active statement that this practice is wrong or unconstitutional. I recognize the need for such places to manage the most difficult prisoners incarcerated today. Providing the basic living conditions such as food, shelter, recreation, legal access and many more have been acceptable for years and are being followed in most cases. The problem isnt the framework; the problem is the culture and the dynamics behind the improper use of the framework as under current case law, all practices documented are permissible treatment methods.

What I would like to see is the courts review the purpose of long term solitary confine versus the need or purpose for short-term solitary confinement. The difference is huge and can be resolved through consistent time frames of human psychology and physiological limits that impacts the wellness on an individual basis rather than as a group. This would require closer supervision and more frequent testing or contact with prisoners to evaluate or assess their mental health status as well as their physical fitness as these contacts can include both at the same time. The question would be what would be an adequate time frame to conduct these contact evaluations and what steps will be taken to avoid an attempt to pencil whip this process and ignore the prisoners need. Perhaps this can be drafted into policies and set by the ACA audit group.

There is no doubt there are cases of prisoners suffering because of the restricted environment they have been placed in. placement cannot and should not be based on being a difficult prisoner but other factors as well that impact imminent dangers to staff or other prisoners and continue to monitor that threat to avoid a long term placement needlessly. This is where the mission creep has developed resulting in excessive time frames inside these solitary confinement units without recourse. To merely state that a supermax confinement placement violates the 8th amendment is absurd as those standards set to operate such units at that custody level has already been accepted and sanctioned by the courts. The area of reforming the supermax should focus on internal mechanisms, steps for entry and release, supervision of professional staff e.g. medical and mental health providers and their custodial responsibilities and standards of care per their accreditation processes and most of all, upgrade the character of those who are put in charge of such units and prepare them through better training, education and mentorship, the abilities to recognize the negativity of such a place and recognize the need for therapeutic intervention methods by medical and mental health providers to ensure their care is actually performed, documented, witnessed and reviewed by an independent source outside the supermax unit to ensure compliance with all mandatory standards as well as those that enhance the operation of the selection of staff to work such units identifying them by experience, skills, training, disciplinary history, and supervisor y performance and development assessments.

To say that Supermax confinement as extensively implemented in the United States falls short of this standard is an injustice of what progress has been made in many states that use this concept and use it well with the emphasis to stay out of court and litigation on matters that could be resolved through common sense and common decency of respecting human rights.

both on their way to Tommy!

are right i am glad to see we got the NY bar on are side it is grate to see that a group of lawyers is willing to stand for what is right even if moest bars do not get to politcal i glad to see them taking a stand to the misuse of solitary bout time to calvery got on bord glad to have them fighting with us now if we can only get the ABA to stand up as well lol one more ny marches onward glad to know that even the lawyers care thare not like they say that thare hartles no they have one and they care i say we go take the bar to thare heads and thares going be a bar fight for justice cout me in all the way it time to rase the bar on careing woot well done NYBAR kick some comon sens in to the pro solitary peeps may thare be light in the darknes of justice

Love the wording. Language is a powerful tool, one most prisoners are not in possession of. They need and appreciate those that do. Good work!

P.O. Box 11374
Washington, DC 20008

info@solitarywatch.org

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