

# Solitary Watch

## Criminal Justice Issues and Prisoners' Rights

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Isolation Doesn't Just Make Prison Sentences More Torturous. For People With Mental Illness, It Can Also Make Them Much Longer.

by [Abram Wolfe](#) | June 11, 2019

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Anthony Gay entered prison at age 19 with a sentence of seven years. The punishment seemed harsh enough for a weaponless robbery of a hat and a single dollar. But for Gay, the seven years would turn into 97, based entirely on his behavior in prison despite the fact that the behavior in question was a result of Gay's psychiatric disabilities, exacerbated by the isolation of solitary confinement.

In the past decade, the myriad harms caused by solitary confinement have received increasing recognition. Yet one of its most devastating consequences still receives relatively little attention: For individuals with mental health issues, landing in solitary not only produces behavior that yields more time in solitary; it can also extend prison sentences, sometimes dramatically. For these already vulnerable people, solitary confinement generates a cycle of punishment that for some can literally be endless.

Dr. Terry Kupers, a California-based psychiatrist and a nationally recognized expert on the psychological impacts of solitary confinement, explained just how pervasive this cycle is. Most people go to prison with a relatively short term. [They] are led to punishable acts by the conditions [of their confinement] themselves, he said in an interview.

In his book *Solitary: The Inside Story of Supermax Isolation and How We Can Abolish It*, Kupers explains how in many prison systems in the United States, the de facto penalty for even minor prison rules violations, including those obviously caused by psychological distress or disability, has become solitary confinement. The isolation of solitary almost inevitably causes a measurable deterioration in mental health, which in turn leads to more behavioral issues, punished with more solitary confinement.

These escalating infractions can ultimately lead to new criminal charges, some of which exist solely to punish in-prison behavior. (In many states, for example, throwing bodily fluids specifically on a prison employee is a desperate act that is not uncommon in solitary confinement units; it is a felony with especially harsh penalties.) A guilty verdict on these charges will then lead to new, sometimes much longer prison sentences, likely to be spent mostly in solitary confinement.

What happens then, says Kupers, is that you get someone who is going to spend a couple of years in prison who ends up spending their whole life there, or who ends up going back and forth, because they've been so damaged by solitary confinement that they can't adjust.

### From 7 Years to 97

Anthony Gay knows all too well how people get drawn into this cycle. After receiving his initial sentence, Gay was sent to Pontiac Correctional Center in Illinois, and would have been eligible for parole in three and a half years. However, Gay's previously unknown mental health issues surfaced due to conditions within Pontiac. [I rapidly deteriorated, Gay said](#) in a newspaper interview. For the first time, he began seriously experiencing symptoms of mental illness, which caused him to act out. Instead of removing me from the environment, or providing adequate mental health treatment, Gay explained, they punished me for it.

That punishment took the form of solitary confinement. Gay's psychological response to that confinement kept him trapped there.

Locked up alone month after month, Gay began throwing feces and urine through the food slot in his cells' solid metal door. He explained these actions as the result of irrational thought processes, such as an infatuation with a staff psychologist. It was like I was delusional, [Gay told a local newspaper](#). I would throw liquids at officers in an attempt to get back [to see the psychologist]. Not knowing that they were about to try to take the rest of my life away. At first, Gay was placed in solitary confinement at Pontiac. Soon, however, he was transferred into long-term isolation at [the notorious](#) Tamms Correctional Center. Tamms, like all supermax facilities in the United States, featured total or near-total isolation for its population of 245. [Tamms is now shuttered](#), due in part to conditions that the Illinois State Supreme Court [ruled were unconstitutionally cruel](#). Gay would spend a total of seven years in those conditions, all the while [in continuous solitary confinement](#).

Rather than attributing his behavior to mental illness and offering treatment in response, prison staff continuously charged Gay with both criminal and administrative violations. In total, Gay was found guilty of [committing 17 separate offenses](#), and his sentence was extended for an [astounding 97 years](#). Gay had been condemned to a life in prison, destined to mostly be spent in solitary confinement.

During the more than 8,000 days he spent in solitary, Gays mental deterioration continued and he engaged in multiple acts of self-mutilation. While self harm is common for individuals in solitary confinement, Gays actions were extreme even by those standards. [As reported by the Chicago Tribune](#), Gay cut open his neck, forearms, legs and genitals hundreds of times. Once, he packed a fan motor inside a gaping leg wound; another time he cut open his scrotum and inserted a zipper. At one point, Gay went so far as to remove part of one of his testicles and hang it on his cell door. Classifying these actions as suicide attempts, staff sometimes responded by tying Gay to his bed, naked, for as long as 32 hours.

Relief for Gay only came through a combination of years of self-advocacy, supported by the activist group Tamms Year Ten; [award winning reporting](#) by the local *Belleville News Democrat* exposing the depth of suffering at Tamms; and [eventually, litigation by the Bluhm Legal Clinics Children and Family Justice Center](#). An amicus brief filed by the Uptown Peoples Law Center and signed by the ACLU, Disability Rights, and dozens of other organizations called Gays sentence an unconscionable and shocking criminalization of his mental illness.

Ultimately, prosecutors agreed to a substantial sentence reduction, and Gay, now 44, was finally released in August of last year after 24 years in prison. With the help of the MacArthur Justice Center, he is suing the state for violations of the Eighth Amendments ban on cruel and unusual punishment, as well as the Americans with Disabilities Act. Currently he is [raising funds](#) to publish his story, which he believes will help those still languishing in isolation.

### Vicious Cycles of Solitary

Gays case is extreme, but far from unique. The effects that solitary confinement had on Gays mental health, his reaction to that rapid deterioration, and the prison systems punitive response, are replicated endlessly in the American penal landscape.

As Dr. Terry Kupers has found in his decades of research, while the effects of solitary vary depending on the individual, they include several noticeable and discrete outcomes. Individuals who are placed in solitary confinement will, often for the first time in their lives, experience very high anxiety, panic attacks, disordered thinking that can be paranoia, compulsive acts which are either pacing in the cell, doing frenetic exercising or cleaning the cell over and over again, despair. In the context of the prison environment, Kupers says, the most problematic behavior of all is anger. Prisoners in solitary report that they get increasingly angry and they dont know why. It has no rational basis, he says. [That anger] keeps getting worse, and they find themselves doing irritable or explosive things for instance, yelling at an officer, and that will get them another ticket [for more time in solitary]. That is a very common phenomenon and it builds over the years.

Individuals with underlying psychological disabilities are [already overrepresented in prisons and jails](#). In addition, incarceration is very often traumatizing, and [solitary confinement has a particularly severe impact on mental health](#). People with existing serious mental health issues are far more likely to encounter conditions of isolation than the prison population as a whole. [According to the 2011 National Inmate Survey](#), just under a third of people in prison who displayed symptoms of serious psychological distress had spent time in solitary confinement in the previous year, compared with 20 percent of all people in prison. A [2017 report](#) by the U.S. Department of Justices Office of the Inspector General also found that in the federal prison system, individuals diagnosed with mental illness ended up spending significantly longer periods in solitary confinement than the overall prison population.

Despite such evidence, the punishment of behaviors driven by mental illness continues across the country. Alisa Roth, author of the recent book [Insane: Americas Criminal Treatment of Mental Illness](#), explained in an interview with Solitary Watch that the myriad rules in carceral settings naturally punish behaviors that would elsewhere be responded to with treatment. Jails and prisons are full of these rules that are ostensibly there to make it safe but often they are pretty capricious and incomprehensible. Even people without psychiatric or cognitive disabilities find it nearly impossible to never run afoul of prison rules, Roth said. And because mental health problems often make rule-following more difficult, people with these problems are more likely to get in trouble, and then we know that the default punishment in so many places is to put people into solitary.

Prison rules, supposedly meant to regulate behavior and enhance order, in fact help enforce what Terry Kupers calls a culture of punishment that disproportionately targets people with psychological disabilities. While surveying prisons in California, Kupers found that officers are not trained to be aware and appropriately responsive to psychiatric disabilities, and often simply punish behaviors associated with those disabilities.

Uncontrollable rage, anxiety, panic, and sensory processing disorders can cause outbursts that correctional facilities are quick to label as insubordination or assault, resulting in solitary confinement. Large scale data back the notion that people diagnosed with mental illness are charged with rule-breaking at much higher rates than the incarcerated population as a whole. [According to the Department of Justice](#), any history of diagnosed mental illness triples the likelihood that a person will be charged with assault while incarcerated; that likelihood only increases as the psychological distress becomes more serious. In addition, [such charges are more likely](#) to result in sentences of solitary confinement for those with mental illness than for other incarcerated persons.

Beyond adding time to an individuals solitary confinement sentence, these charges can extend the overall time that a person spends incarcerated. Infractions that occur within solitary confinement can trigger criminal charges, which can add years, or even a life sentence, to what might otherwise have been a short prison term. As well, the loss of early-release credits causes a de facto increase in any individuals total prison time. Known as good-time or earned-time credits, these allow individuals to attain early release through a mix of good behavior and participation in in-prison programming. According to [Prison Fellowship](#), in 2018, a person could have their sentenced reduced by anywhere from 8 to 83 percent, depending on the state they were incarcerated in.

The revocation of these credits is heavily based on administrative discretion creating an environment which Alisa Roth says is akin to a kangaroo court. When charged with a rules violation, Roth says, there is technically a hearing, which can result in an administrative panel removing good-time credits and extending an individuals sentence. However, its not a hearing in the sense that we would think of

in terms of a regular court appearance. Importantly, there is no substantive right for an incarcerated person accused of a rule violation to have a lawyer, making the preparations for these hearings daunting, [particularly for individuals with mental illnesses](#).

Scant data exists to pinpoint exactly how many people have had their sentences extended simply due to behavior that occurred within prison. However, anecdotal accounts, such as Gays, unmask an environment within which incarcerated individuals who have experienced psychological deterioration due to solitary confinement are likely to serve more time than their original sentence mandated, often in heavily isolated conditions.

## **Criminalization of Suffering**

This punitive disproportion is made possible by specific rules that criminalize behaviors often influenced or caused by an individual's mental illness. Perhaps most damaging of all are prison rules that criminalize self-harm and suicide, behaviors that almost always are indicative of, and caused by, mental vulnerability.

Self-mutilation is [frequently found among individuals held in solitary confinement](#) settings, both among those who enter solitary with underlying mental health issues and those whose develop psychological problems as a result of those environments. Many prisons meet self-harm with disciplinary action. [One class action lawsuit in Georgia](#), for example, notes separate incidents where unnamed incarcerated men were punished for self-harm, including for destruction of state property. All of these individuals received lengthened prison sentences as well as further time in solitary confinement.

Suicidal behavior by individuals in solitary is commonly treated in a disciplinary manner, as well. In 2016, for example, [Jamie Wallace](#) committed suicide just ten days after he testified, in the ongoing class-action lawsuit *Braggs v. Dunn*, against Alabama's policies surrounding the mentally ill and solitary confinement. [Originally sentenced](#) to solitary for attempting suicide, Wallace was found consistently guilty of violations resulting from self-harming practices, remaining in solitary and solitary-like conditions up to the day he died. [According to a local news report](#), Wallace received 12 disciplinary citations for self-harm, including six that sent him to segregation. [Records from the same prison](#) show at least four other people who were similarly punished with solitary after self-harm incidents and suicide attempts.

Punitive reactions to acts of self-harm are pervasive. In New York, [the Village Voice](#) reported in 2017 on the case of Adam Hall, a young man with a long history of mental illness. After attempting to kill himself by setting fire to his cell, Hall faced arson charges that tripled his time in prison. In California, until recently, solitary was frequently used to punish self-mutilation or attempted suicide for the purpose of manipulation.

The idea that such desperate acts are examples of manipulation or malingering permeates the culture of many prisons and jails. In some cases, these attitudes extend beyond correctional officers to [medical and mental health staff](#), who are charged with determining whether [incarcerated people are faking it](#) in order to get out of solitary and be sent to a hospital or prison infirmary as if self-mutilation were not, in itself, sufficient evidence of mental illness.

Even in prisons and jails that prohibit punishment for acts of self-harm, accessory behaviors can be met with punitive responses. Dr. Homer Venters, during his time as chief medical officer for the New York City jail system, witnessed these loopholes firsthand. Venters, author of the new book [Life and Death in Rikers Island](#), told Solitary Watch that he would hear from patients that when people committed acts of self-harm, they would often be charged with another infraction. In some cases, they could be charged for the cost to repair of a piece of their solitary cell that may have been damaged in their committing an act of self-harm. Such was the case for [Faygie Fields](#), who, while incarcerated in Illinois, was charged \$5.30 after attempting suicide by tearing up a bedsheet and making it into a noose.

Moreover, the [constant skeptical attitude towards people's health needs](#), the fact that [accessories to mental illness-associated behaviors](#) are themselves punishable, and the [heavily reduced access](#) to effective counsel and legal defense [for people with mental illness behind bars](#), all add strength to the already indomitable processes that create the cycle of solitary confinement.

Additionally, Venters points to a way in which solitary particularly harms people who are being held in jail pre-trial. All of the chaos around the violence and the uncertainty and the stress of being in solitary also robs [incarcerated people] of another right that they are supposed to have, which is the right to participate in their defense. People don't make it to court, they can't talk to their lawyers. Thus, says Venters of isolated individuals, their cases drag out for long periods of time during which they continue to be stuck in solitary, without even having been convicted of a crime.

## **The Way Forward**

When jurisdictions do attempt to address the disproportionate use of solitary confinement for people with psychological disabilities, reforms can be circumvented by recalcitrant prison officials. After the federal Bureau of Prisons adopted [new mental health policies](#) in 2014 aimed specifically at keeping people with diagnosed mental illness out of solitary confinement, for instance, there followed [a massive reduction](#) in the number of people designated as having, [and being treated for](#), mental illnesses. This pattern has been seen in New York and several states, as well.

Even well-intentioned prison staff can find their work undermined, Homer Venters says, because solitary confinement creeps back into practice. In his home facility of Rikers Island, for example, the mental health service implemented what they called safety cells, which Venters said were essentially solitary confinement, without being explicitly labeled punitive or administrative segregation cells.

Alisa Roth says that the only answer is to simply not incarcerate people with mental illness. Otherwise, outside punishment is inevitable. Mental health care inside jails and prisons is bad. It's worse than what you get on the outside. In solitary, it's [even] worse. It's a double whammy, because it's not just that being in solitary is exacerbating, or driving the mental illness, but the fact that you're isolating the person from the treatment they need.

However, since isolation not only exacerbates but also causes serious mental health problems, true disruption of the vicious cycle of

solitary and mental illness will ultimately demand an end to all long-term solitary confinement. Until that happens, there will be more stories like Anthony Gays, of vulnerable people trapped in prison and in solitary for decades or lifetimes.

Accurate information and authentic storytelling can serve as powerful antidotes to ignorance and injustice. We have helped generate public awareness, mainstream media attention, and informed policymaking on what was once an invisible domestic human rights crisis.

Only with your support can we continue this groundbreaking work, shining light into the darkest corners of the U.S. criminal punishment system.

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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Keep up the great work. We pray for all inside the walls

I have seen the above story replicated in the experience of my mentally ill friend in MICHIGAN DEPT of CORRECTIONS. He goes along sometimes for a month with normal behavior. Then, symptoms of mental illness begin (again) to show themselves. The inmate himself REQUESTS segregation because he fears he will hurt / injure / kill himself or another person. This solitary life lasts 3 or 4 weeks. He is released from seg certified by Mental Health Professionals as being OK to return to his Residential Treatment Program and the cycle begins again. Yes! all visits for an entire year have been denied to him because of irrational actions taken when under great stress: the prisoner was unable to urinate due to one (unknown) medication being regularly administered. The prisoner stashed 6 pills in his jacket pocket. He forgot about them. The contents were discovered by authorities; the drug was NEITHER addictive nor dangerous. The prisoner passed a drug test. There was a hearing with result that prisoner was panelled meaning if he refused medication he would be brought up again with more serious charges. This sad saga goes on and on. He is more isolated and more mentally ill than the same time last year when we could have regular visits. Appeals to AFSC and prisoner rights groups have been useless.

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