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Criminal Justice Issues and Prisoners' Rights

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by [Solitary Watch Guest Author](#) | May 9, 2014

*Dr. Terry Kupers is one of the nations leading experts on the psychological effects of prison isolation. A psychiatrist with a background in psychoanalytic psychotherapy, forensics and social and community psychiatry, he is on the faculty of the Wright Institute in Berkeley. The following is a brief excerpt from a chapter entitled *Isolated Confinement: Effective Method for Behavior Change or Punishment for Punishments Sake?* which appears in [The Routledge Handbook of International Crime and Justice Studies](#) (Eds. Bruce Arrigo & Heather Bersot, Oxford: Routledge, 2013, pp. 213-232). It is reprinted here with the kind permission of the author. In this excerpt, Dr. Kupers discusses some social implications of supermax security prisons including how they are used to permanently remove the poor and disenfranchised and especially those with mental illness from free society.*

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In recent decades in the U.S.A., wealth has become more concentrated in fewer hands, the gap between rich and poor has grown, and there has been a turn away from social welfare programs that would ordinarily support disadvantaged people. Meanwhile, disadvantaged people, for example low-income individuals with serious mental illness, on average, receive less than adequate treatment and support in the community, and tragically, in all too many cases, find their way into the criminal justice system. In other words, poor and disenfranchised people are disappeared by the increasingly inequitable society that refuses to adequately fund services they need to stay afloat. While this trend is rarely discussed in these terms, I firmly believe disadvantaged people are being disappeared from public view into the jails and prisons because the public is too little interested in helping them, cannot bear to witness their suffering in the community, and all too conveniently, there is the politically popular ideology of lock em up and throw away the key. Criminal defenses built on some version of incompetence to stand trial or not guilty by reason of insanity become more difficult to win. Sentences are made longer, more mandatory and harsher. And meanwhile, in the jails and prisons, there is crowding and inadequate mental health services, and diminishing opportunities to participate in meaningful educational and rehabilitative programming.

Individuals with serious mental illness spend ever longer periods behind bars, they are less prepared for success at going straight once they are released, and their parole violation rates and recidivism rates rise precipitously. While the population of prisoners with serious mental illness might appear a special case, in fact a comparable fate awaits prisoners who do not suffer from significant mental illness. While the prison population has multiplied many times over in recent decades, educational and rehabilitation services, like mental health treatment services, have not grown apace. Prisoners face longer sentences, a greater likelihood they will spend a significant amount of time in isolation including supermax confinement, and a rapidly rising recidivism rate after they are released.

David Garland provides a social historical analysis of these developments, differentiating between the age of reform or the welfare state era that lasted for approximately 100 years and came to an end in the early 1970s, and the culture of control that has succeeded the welfare state era and prevails today in criminal justice:

The criminologies of the welfare state era tended to assume the perfectability of man, to see crime as a sign of an under-achieving socialization process, and to look to the state to assist those who had been deprived of the economic, social and psychological provision necessary for proper social adjustment and law-abiding conduct. Control theories begin from a much darker vision of the human condition. They assume that individuals will be strongly attracted to self-serving, anti-social, and criminal conduct unless inhibited from doing so by robust and effective controls. Where the older criminology demanded more in the way of welfare and assistance, the new one insists upon tightening controls and enforcing discipline (Garland 2001: 15.)

Of course, the supermaximum security prison is the epitome, and a natural culmination of control theories. Another name for the supermaximum security unit is Control Unit. And it is no accident that little in the way of education or rehabilitation is available to the denizens of supermaximum control units. Rehabilitation is not in the governments plans for them. I have focused on prisoners with serious mental illness who land in long-term solitary confinement. Their condition, their disabilities, and their prognosis become much worse on account of the idleness and isolation. Of course, when prisoners are kept idle and isolated, there is little or no mental health treatment, nor rehabilitation. This explains why prisoners with serious mental illness are so severely and irreversibly damaged by their experience in isolation. But the conditions that cause psychiatric deterioration in prisoners with serious mental illness are obviously going to cause pain and emotional harm to prisoners who appear, upon casual inspection, to be emotionally stable. Thus, following a rigorous review of the extant research literature on supermax confinement, a group of widely recognized experts on solitary confinement

concluded: No study of the effects of solitary or supermax-like confinement that lasted longer than 60 days failed to find evidence of negative psychological effects (Amicus Brief to the Supreme Court 2005).

I explained in the previous section why the prognosis for individuals suffering from serious mental illness becomes more dire after they spend time in a prison solitary confinement unit. The neglected and traumatized individual with serious mental illness has a much more dire prognosis than the individual who enjoys a supportive environment and adequate treatment. It is in this sense that the harsh conditions of solitary confinement cause great and permanent damage. Prisoners suffering from serious mental illness are disproportionately consigned to solitary confinement for much of their term in prison, there they are unlikely to receive adequate treatment, they are not going to participate very much in rehabilitation programs, and after they have spent a number of years in prison their psychiatric disorder is likely to be more severe, more chronic, less amenable to treatment, and they are more likely to leave prison (if they have a determinate sentence, and over 90% of prisoners are eventually released) broken and incapable of adjusting to life in the community. Destroying a prisoners ability to cope in the free world is one of the worst things prison does. I have described this as the decimation of life skills, a form of torture (Kupers 2008b). Crowding, a lack of rehabilitation opportunities, excessive reliance on isolation as punishment, restriction of visits and contacts with the outside world, pervasive sexual abuse, disrespect at every turn, the failure of pre-release planning all these things add up to throwing the prisoner who completes a prison term out into the world broken, with no skills, and a very high risk of recidivism. This is the plight of prisoners with serious mental illness, and it is also the plight of the other prisoners consigned to long-term supermax settings.

I do not believe the public would stand for this outrageous callousness if the public were aware it is going on in our midst. But the public is almost entirely ignorant about all of this. After all, there is little media attention to the plight of prisoners with serious mental illness, nor to the plight of prisoners with or without mental illness who spend inordinate lengths of time in solitary confinement and are then returned to the community. In some states, including California, there are gag orders, i.e. laws against journalists talking to prisoners. And visiting is very restricted. To a great extent, we in the community learn what is happening in prisons largely from the families of prisoners, who visit them and hear about their terrible straits, and then return to the community, and to their legislators, to talk about that. But supermaximum security units tend to be located far from population centers (Californias Pelican Bay State Prison is a seven hour drive north of San Francisco, and Illinois Tamms is a comparable distance from Chicago). Then, visiting at supermax prisons is very restricted. The visitor has to sit on the far side of an indestructible fiberglass (lexsan) window with no contact, the prisoner is usually brought in wearing shackles, and quite a few prisoners tell me they actually dissuade their families from visiting because they do not want their loved ones to see them in shackles. The public hears little of what occurs in supermax prisons.

I have described a tragic phenomenon that is all too usual (Kupers 2008a). Prisoners in solitary confinement deteriorate and become more psychiatrically impaired and less capable of functioning back in the community. Then, as if to hide the evidence from the public that supermax facilities are destroying people rather than preparing them for a law-abiding post-release life in the community, new ways are invented to keep the prisoners locked up and out of sight even longer. Thus, most prisoners are serving determinate sentences, meaning that when the three or twelve years of their prison sentence elapse, they should be able to return home. But in recent years, there has been legislation in many states mandating new forms of post-release civil commitment, and increasingly new criminal charges are brought against prisoners for relatively minor misbehaviors that once would have been punished during their prison term with a short stint in segregation. So the prisoner who completes his prison term is faced with the possibility of being locked in a psychiatric hospital (if he suffers from serious mental illness) or the possibility of being found guilty of a new, in-prison crime because of his actions while locked in an isolation unit. It is as if there is a wish to hide the damage wreaked by years of solitary confinement.

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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I too, have served Years at a time in The Hole. In many cases The Hole is where one gets even more discipline, after you've already landed in solitary confinement.

One particular time while being punished for some minor infractions, a cellie and I saved our fruit and sugar, made some wine. And was doing the best we felt possible to celebrate one of our birthdays. Anyway as the night went on, the drunker we got, one thing led to another and we ended up refusing to cuff-up and the Taskforce was called in.

They finally got there in the early morning, and a short bout ended with both me and my cellie being stripped butt naked, placed in separate cells, and 5-pointed to these special bed for 5 days each.

When this punishment takes place, each limb is cuffed to a welded loop positioned at each corner of the bed with two more loops at the center of bed for forcing one to lie there without any movement. A nurse comes in and feeds you with a spoon, and the guards come in every 4 hours and flip you over. You must urinate or pass your bowels while in this position as well.

Luckly I was able to hold my Bowl movements for the 5 days, though i did have to wiggle and do my best at pissing off the side of the bed, a few times.

Theres no mattress, you have on no cloths. And I remember it being Iced Cold for the full 5 days.

This is a True story!

Which happened to me

Martin Blackburn,

at OakDale Federal prison

in 1994 or 1995.

Before being sent to USP Leavenworth, Kan.

The mentally ill are treated horrendously in prison. In California, they are touting brand new buildings etc., but the reality is that CDCR has instituted layers of psychologists and social workers administrators who engage in unethical practices that would never be acceptable outside of prison. They range not challenging from solitary confinement, to accepting yelling and using seriously abusive language against the mentally ill prisoners by custody staff. Essentially it is a fear (or more like terror) based approach to get the mentally ill prisoners in line. In general the mental health clinical line staff level are OK, and try to change the situation, but there are layers of administrative staff allied with the institutional custody staff, who are abusive. Unfortunately, there is very little that individuals who want to provide ethical mental health treatment can do, as raising issues means getting targeted, punitive treatment, and possible loss of job. So, the charade continues. In case of California, the issues are more public, but nothing changes, because the attitude and culture is so ingrained. Additionally the prison guards union are extremely powerful, and without their endorsement (or at least not active opposition) it is not possible for the governor to get elected. So, Governor Brown, is essentially in cahoots with this kind of abusive treatment.

We appear to have come full circle but we now hide the abuse behind not only cell doors but a pretext of security concerns that further isolate those already in isolation cells. To say they are not isolated because a person passes them a meal tray is just insane in itself. Some prisoners have not seen the light of day for decades and have not had a humane touch in that time. Our money would be much better spent on mental health treatment and drug rehabilitation, not for profit prisons.

Yes there is a reason why these institutions were first built in the countryside far from the prying eyes of the public and continue to be, Out of sight, out of mind!

I only recently traced the roots of the present day system back to the 19th century. I had been driven by curiosity provoked by the hunting memory of the eerily spectacular, Romanesque Revival architecture of Preston Castle in Ione, CA which overshadowed the now defunct Preston Youth Correctional Facility and its isolation unit, Tamarack Lodge where I did time.

Here are some excellent B&W photos of Prestons hole, the Tamarack Lodge.

<http://www.engagephoto.com/blog/2014/3/11/tamarack>

I have discovered from Prestons 100 year time capsule that Prestons design was taken from tracings of the Minnesota State Training School (M.S.T.S.) in Red Wing, designed by Minneapolis architect Warren B. Dunnell. In doing so I also discovered a link between these reformatories, prisons and mental asylums, of the era. The architects collaborated with and designed for experts of both systems.

But Dunnell had also designed the Fergus Falls State Hospital which opened on July 29, 1890 based upon architectural concepts for the treatment of the mentally ill developed by Dr. Thomas Story Kirkbride, Superintendent of the Pennsylvania Hospital for the Insane.

Fellow Quaker John Haviland, the architect for the Pennsylvania Hospital for the Insane, worked with Kirkbride on the hospitals design. Richardson himself had previously collaborated with Dr. Kirkbride and Frederick Law Olmsted in the design of Buffalo State Asylum for the Insane which opened in 1880 in Buffalo, New York. Today it is known as The Richardson Olmsted Complex a designated National Historic Landmark.

The grand design of this complex may have been influenced by Havilands Eastern State Penitentiary (E.S.P.) grandeur which opened in 1829 during Kirkbrides second year at the University Of Pennsylvanias Medical School. At the time E.S.P. opened it was the largest and most expensive public structure in the country and its radical use of solitary confinement has since made it infamous.

The relationship between these different institutions goes much deeper than their architecture however. Both systems were sold to the public as being therapeutic, as opposed to simple custodial institutions, but neither system has been successful as abuse, neglect, and mismanagement, soon replaced the reformers high ideals.

Then, beginning in the early 1950s, there was a major push for the deinstitutionalization of the mentally ill after the abuse carried out in these mental asylums had been exposed. Some of the mental patients ended up in privately run nursing homes using the new 1965 social welfare program, Medicaid, but undoubtedly many others have landed in prisons over time.

So weve now come full circle from the time of Dorothy Dix, who along with Kirkbride, famously lobbied for the removal of the mentally ill from our nations prisons.

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