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Criminal Justice Issues and Prisoners' Rights

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Campaign and Advocacy

close

Search

close

close

by [Jean Casella](#) | February 27, 2010

The [history of solitary confinement](#) shows it to be largely an American invention. In a blog post that accompanied the March 2009 publication of [Atul Gawande's New Yorker article](#) on solitary confinement, Mary Hawthorne described its genesis at the Walnut Street Jail in Philadelphia at the end of the 18th century. This Quaker-inspired experiment in incarceration eliminated corporal punishment (whipping, stocks, and the like) and called for the complete isolation of the prisoner from all human society.

The system, Hawthorne writes, was ironically and perversely, a reform attempt, based on the notion of penitence (hence penitentiary), conceived by the Philadelphia Society for Ameliorating the Miseries of Public Prisons. Prisoners were kept alone in their cells to work, read the Bible, and contemplate their crimes. To ensure that they did not know precisely where they were, and did not catch sight of other inmates, their heads were covered with hoods whenever they were taken from their cells.

When Charles Dickens toured the United States in 1842, he witnessed solitary confinement at Eastern State Penitentiary outside Philadelphia, and wrote about it in his travelogue, *American Notes for General Circulation*.

Looking down these dreary passages, the dull repose and quiet that prevails, is awful. Occasionally, there is a drowsy sound from some lone weavers shuttle, or shoemakers last, but it is stifled by the thick walls and heavy dungeon-door, and only serves to make the general stillness more profound. Over the head and face of every prisoner who comes into this melancholy house, a black hood is drawn; and in this dark shroud, an emblem of the curtain dropped between him and the living world, he is led to the cell from which he never again comes forth, until his whole term of imprisonment has expired. He is a man buried alive; to be dug out in the slow round of years.

And though he lives to be in the same cell ten weary years, he has no means of knowing, down to the very last hour, in what part of the building it is situated; what kind of men there are about him; whether in the long winter night there are living people near, or he is in some lonely corner of the great jail, with walls, and passages, and iron doors between him and the nearest sharer in its solitary horrors.

As Hawthorne relates, Dickens visited several prisoners, including one who was about to be released after two years in solitary confinement. Dickens remarked to his guide that they trembled very much.

Well, it's not so much a trembling, was the answer though they do quiver as a complete derangement of the nervous system. They can't sign their names to the book; sometimes can't even hold the pen; look about them without appearing to know why, or where they are; and sometimes get up and sit down again, twenty times in a minute. This is when they're in the office, where they are taken with the hood on, as they were brought in. When they get outside the gate, they stop, and look first one way and then the other: not knowing which to take. Sometimes they stagger as if they were drunk, and sometimes are forced to lean against the fence, they're so bad; but they clear off in course of time.

After what he witnessed at Eastern State Penitentiary, Dickens wrote forcefully about what he clearly considered a cruel and inhuman form of punishment.

I believe that very few men are capable of estimating the immense amount of torture and agony which this dreadful punishment, prolonged for years, inflicts upon the sufferers; and in guessing at it myself, and in reasoning from what I have seen written upon their faces, and what to my certain knowledge they feel within, I am only the more convinced that there is a depth of terrible endurance in which none but the sufferers themselves can fathom, and which no man has a right to inflict upon his fellow creature. I hold this slow and daily tampering with the mysteries of the brain to be immeasurably worse than any torture of the body; and because its ghastly signs and tokens are not so palpable to the eye and sense of touch as scars upon the flesh; because its wounds are not upon the surface, and it extorts few cries that human ears can hear; therefore the more I denounce it, as a secret punishment which slumbering humanity is not roused up to stay.

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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Where are the citations for Dickens words?

Ok I read this and I should look into a better history The shaking explains alot . I am not wanting to add names but I will say solitary is not for the weak hear ted and it messes with these mens lives . they dont use hoods but they definitely make them think about there crime so many say a month they are in there . My man was in there 5 years and we together are working on getting his mind better , its hard .I mean they dont do that to any one . lock them up with no contact for five years could you do it and still think happy thoughts ?????

i ben to ESP when i die i want my asses spred in the hole of it odd thing i feel at peaces thare but is it leagal for a judge to mandate that a sentince be done in solitary i was thingken of the black panther case thout the bop got the say but didnt think judges can mandate how you do your time only way i know of that a judge can do this is under terimsum act but is a judge real hated you for some reson can they realy do that with out the tarest act thing just as you or me if i stood trial tarmarow and the judge thout i was going to be a pain in the ass and i made a joke of him in cout pissing him off like hell can they realy find loop holes to make it part of a sentices that it has to be in solitary no one ever ben abal to anser the qestion was hoping so lawer anyone who knows the anser mite tell me allways wondered

Also from Atul Gawandes Hellhole article:

It wasnt always like this. The wide-scale use of isolation is, almost exclusively, a phenomenon of the past twenty years. In 1890, the United States Supreme Court came close to declaring the punishment to be unconstitutional. Writing for the majority in the case of a Colorado murderer who had been held in isolation for a month, Justice Samuel Miller noted that experience had revealed serious objections to solitary confinement:

A considerable number of the prisoners fell, after even a short confinement, into a semi-fatuous condition, from which it was next to impossible to arouse them, and others became violently insane; others, still, committed suicide; while those who stood the ordeal better were not generally reformed, and in most cases did not recover sufficient mental activity to be of any subsequent service to the community.

The simple truth is that public sentiment in America is the reason that solitary confinement has exploded in this country, even as other Western nations have taken steps to reduce it. This is the dark side of American exceptionalism. With little concern or demurral, we have consigned tens of thousands of our own citizens to conditions that horrified our highest court a century ago.

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.

Oscar Wilde in De Profundis:

Now I am advised by others to try on my release to forget that I have ever been in a prison at all. I know that would be equally fatal. It would mean that I would always be haunted by an intolerable sense of disgrace, and that those things that are meant for me as much as

for anybody else the beauty of the sun and moon, the pageant of the seasons, the music of daybreak and the silence of great nights, the rain falling through the leaves, or the dew creeping over the grass and making it silver would all be tainted for me, and lose their healing power, and their power of communicating joy. To regret ones own experiences is to arrest ones own development. To deny ones own experiences is to put a lie into the lips of ones own life. It is no less than a denial of the soul.

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