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Criminal Justice Issues and Prisoners' Rights

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by Jean Casella and James Ridgeway July 11 201

A comprehensive new article by Brandon Keim in *Wired Science* is titled <u>The Horrible Psychology of Solitary Confinement</u>. Keim does an excellent job of summing up the research on the psychological effects of solitary. He also points to the relativelack of cutting-edge neuroscientific research on the subject, whichmight show the physical effects isolation has on the brain. (We wrote about <u>one such study here.</u>)An excerpt follows, but the article is well worth reading in full.

Scientific studies of solitary confinement and its damages have actually come in waves, first emerging in the mid-19th century, when the practice fell from widespread favor in the United States and Europe. More study came in the 1950s, as a response to reports of prisoner isolation and brainwashing during the Korean War. The renewed popularity of solitary confinement in the United States, which dates to the prison overcrowding and rehabilitation program cuts of the 1980s, spurred the most recent research.

Consistent patterns emerge, centering around the aforementioned extreme anxiety, anger, hallucinations, mood swings and flatness, and loss of impulse control. In the absence of stimuli, prisoners may also become hypersensitive to any stimuli at all. Often they obsess uncontrollably, as if their minds didnt belong to them, over tiny details or personal grievances. Panic attacks are routine, as is depression and loss of memory and cognitive function.

According to Kupers, who is serving as an expert witness in an ongoing <u>lawsuit over Californias solitary confinement practices</u>, prisoners in isolation account for just 5 percent of the total prison population, but nearly half of its suicides.

When prisoners leave solitary confinement and re-enter society something that often happens with no transition period their symptoms might abate, but theyre unable to adjust. Ive called this the decimation of life skills, said Kupers. It destroys ones capacity to relate socially, to work, to play, to hold a job or enjoy life.

Explaining why isolation is so damaging is complicated, but can be distilled to basic human needs for social interaction and sensory stimulation, along with a lack of the social reinforcement that prevents everyday concerns from snowballing into pychoses, said Kupers.

He likened the symptoms seen in solitary prisoners to those seen in soldiers suffering from post-traumatic stress disorder. The conditions are similar, and its known from studies of soldiers that chronic, severe stress alters pathways in the brain.

Brain imaging studies of prisoners are lacking, though, given the logistical difficulties of conducting them in high-security conditions.

Such studies are arguably not needed, as the symptoms of solitary confinement are so well-described, but could add a degree of neurobiological specificity to the discussion.

What you get from a brain scan is the ability to point to something concrete, said law professor Amanda Pustilnik of the University of Maryland, who specializes in the intersection of neuroscience and the legal system. The credibility of psychology in the public mind is very low, whereas the credibility of our newest set of brain tools is very high.

Brain imaging might also convey the damages of solitary confinement in a more compelling way. There are few people who say that mental distress is impermissible in punishment. But we do think harming people physically is impermissible, Pustilnik said.

You cant starve people. You cant put them into a hotbox or maim them, she continued. If you could do brain scans to show that people suffer permanent damage, that could make solitary look less like some form of distress, and more like the infliction of a permanent disfigurement.

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.

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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Arguably, the greatest changes in prison and asylum design have been driven by philosophical arguments rather than advances in architectural design. In 1776, the Philadelphia Quakers introduced the idea of solitary confinement at the Walnut Street Jail, in the belief that prisoners needed the time alone to reflect upon and to repent for their crimes. In 1791 taking this idea a step further, philosopher Jeremy Bentham published his proposal for a Panopticon House, or a circular building so constructed that, every convict should pass his life in perpetual solitude, while remaining perpetually under the surveillance. At the center of the building, and out of view of the prisoners, a lone jailer could watch over 1,000 prisoners with invisible omniscience.

In 1799 New York enacted its civil death statutes that provided that a person sentenced for imprisonment for life is thereafter deemed civilly dead. These statutes reserved civil death only for those serving life terms in a penitentiary and restricted temporary civil death to those still held in prison.

The New York State prison at Auburn opened in 1819. In 1821, the Legislature of New York ordered an additional wing of only solitary cells be built. These solitary cells provided the foundation for what is today called a Security Housing Unit (SHU).

In that same year, the Legislature of New York enacted an obligatory grading system of the prisoners at Auburn. Three different classifications of prisoners were developed.

About this time New York also passed laws which disfranchised not just prisoners, but all persons convicted of felony crime and prohibited them from holding office and serving on juries.

Other states quickly followed suit.

The first class of inmates of the Auburn Experiment included eighty of the most hardened and severe criminals. These criminals were to be subjected to solitary confinement without any labor. A by-product of the Auburn experiment was the use of solitary confinement as a means of punishment.

The experiment resulted in several cases of madness, illness, and suicide after just one year.

(Today, the average duration is five years).

The idea that most convicted offenders are endowed with certain inalienable rights was deeply entrenched in law during this era and since the effects of these mens continual solitary confinement had not rehabilitated them, but had only made them insane appalled the public.

No doubt impressed by the publics sense of moral outrageGovernor Robert Yates ended the experiment, fully pardoning the vast majority of the inmates.

The second group of inmates was rotated between solitary confinement and labor. Their hard labor was deemed a form of recreation. The rules at Auburn were strictly enforced and silence at all times was by far the most strictly enforced inviting the whip if broken. The third group worked together during the day, but was separated at night in their individual cells to prevent them from plotting uprisings, riots, or escapes. This class of inmates became the cornerstone of the Auburn system, known as the congregate system. The Auburn system was the first prison that had its inmates work during the day and it soon became the preferred model for prisons throughout the country.

By 1865 the convicts alien status resulted in the framers of the 13th Amendment un-controversially exempting convicts from the otherwise universal prohibition on slavery and involuntary servitude.

In 1815 James Bevans had presented a Panopticon Plan, for a proposed London Asylum. Bevans design followed what has also been called the radial plan and it offered seven arms of three stories each connected to a central hub observation post. Physical restraints were to be replaced by visual observation of patents by attendants and the medical superintendent.

John Haviland, the most famous and internationally influential prison architect of all time, happened to be studying architecture in London at the time, and he took notice. After immigrating to the US, Haviland proposed a design for Pennsylvanias Eastern State Penitentiary based on Bevans design.

Havilands ESP design gave much attention to the vexing problem of communication among the prisoners. After considerable experimentation with hot-air ducts and various arrangements of water pipes, the architect was satisfied before he had completed (ESP) at Cherry Hill that such contacts had been reduced to a minimum.

Some important innovations in design were also made to facilitate communication among the prison staff, as well as to improve their

surveillance of prisoners. This was particularly true of his use of the central rotunda, probably for the first time, as a sort of communications hub and nerve centre of the prison.

Compared with the penitentiaries of their day, the prisons of Haviland were overwhelmingly superior, both technically and stylistically. Havilands choice of the heavy and gloomy Gothic and Egyptoid styles used at Philadelphia (Cherry Hill, ESP) and at Trenton (The Tombs) accents security and the punitive nature of imprisonment.

This view was in line with Havilands professor, James Elmes, who in lecturing on prison design said the external aspect should be made as gloomy and melancholy as possible. And the building commissioners of Cherry Hill went on record as saying that: the exterior of a solitary prison should exhibit as much as possible great strength and convey to the mind a cheerless blank indicative of the misery which awaits the unhappy being that enters within its walls. The prospect of solitary confinement plus the grim and forbidding appearance of the prison itself would serve as a powerful deterrent to the potential offender on the outside. Solitary confinement day and night became, then, the Quaker solution to the problem of rehabilitation as well as the deterrence of potential law-breakers.

But there were others who disagreed. In 1826, the Revolutionary War hero Marquis de Lafayette visited Eastern State, then under construction. He had spent three years in solitary confinement as a prisoner of war, and was aghast. Lafayette reportedly told a friend back in Paris, Of all the sufferings of my life, none have exceedednone have equaled that single oppression of being, for three whole years, asleep and awake, sitting and standing, exposed to the view of two eyes, watching my every motion, taking from my very thoughts every idea of privacy.

At the time ESP opened in 1829 it was the largest and most expensive public structure in the country. The elite opinion in the United States was firmly behind the idea of solitary confinement. The debates of the day focused largely on whether the system at Eastern State was cost effective.

The arrogance of the system can be heard in the annual report of 1869, which lists the arguments against the solitary system, refutes them, and concludes, We are justified in unequivocally asserting that the Pennsylvania system of penitentiary discipline understood and properly applied, is not injurious to the health, has no injurious influence on the mind, is neither inhuman nor cruel and that if properly administered, it is now the most philosophic and effective system for the treatment of crime as an actual condition of persons in all societies.

Despite this vehement defense of the solitary system, in the period after the Civil War, the regimen at Eastern State was slowly abandoned. Historians have theorized that the rise in foreign immigrants among the prison population decreased public sympathy for prisoners and made expensive penal reform less politically popular during the postwar period.

John Haviland also designed at least one asylum, Harrisburg State Hospital (HSH) known at the time as the Pennsylvania State Lunatic Hospital. Fellow Quaker Dr. Thomas S. Kirkbride, M. D. was one of the trustees appointed by the governor for the HSH project which opened in 1851. In 1840 Kirkbride had become the superintendent of the newly established Pennsylvania Hospital for the Insane designed by Isaac Holden. When HSH became overcrowded young architect Samuel Sloan, Kirkbrides friend and collaborator, designed the Pennsylvania Hospitals Department for Males which was completed in 1859, this huge structure consisted of several wings extending from a main central building. It introduced many innovations in terms of spaciousness, airiness and light.

Dorothea Dix was an influential social reformer in the 19th century. While visiting a jail in 1841 to teach Sunday school, she witnessed the appalling treatment of the mentally ill who were forced to live in the company of common criminals.

Outraged, Dix convinced the legislatures of many states to construct public asylums. Dix and Kirkbride formed a friendship that resulted in a proliferation of asylums based on the Kirkbride Plan.

The grand scale of Dr. Thomas Story Kirkbrides asylums was likely influenced by Eastern State Penitentiary (ESP) which opened in 1829 during Kirkbrides second year at the University Of Pennsylvanias Medical School.

Prisons and asylums also have shared methodologies of confinement. Moreover, these institutions emerged in the US during the same period during the 19th century and were based on similar principles of reforming deviant behavior. Both were intended to be therapeutic, as opposed to simply custodial, institutions. Both served as laboratories for new techniques of behavioral management. Both attempted to use architecture as a force for moral development. Both were created with a burst of reformist optimism but neither was successful. Abuse, neglect, and mismanagement soon replaced the reformers high ideals.

In fact one of the 19th-centurys most notorious socioarchitectural phenomena were these insane asylums which housed the eras mentally ill enormous and stunning buildings whose architecture stood in stark contrast with the ominous atmospheric of their inner workings. Whats most peculiar about those asylums is that they, like much of policy dysmorphia that begins with an idealistic vision and ends in a social malady, began with the idea of moral treatment wherein the ill would be removed from the city and placed in these Utopian environments, many of which were fully self-sufficient and even generated their own electricity, and put to meaningful work. Also in the 19th century, the U.S. actually presented an array of facilities where children considered different or difficult might be found. In addition to lunatic asylums, reports from institutions for the feeble-minded in the 1880s noted cases of moral idiocy. (The inability to understand moral principles and values and to act in accordance with them, apparently without impairment of the reasoning and intellectual faculties)

The philosophy of moral treatment that influenced early American, as well as European, was the ameliorative role of work, considered a key element of moral treatment was emphasized in 19th-century orphanages, asylums, almshouses, and reformatories.

There was growing eugenics movement in the U.S., associated with cognitive disability, criminality and to advocate increasingly punitive means of containing and preventing (e.g., through involuntary sterilization) all forms of physical and behavioral deviance. The mixed motives driving reformers led to a network of Houses of Refuge, a euphemism for reformatories not surprisingly these same architects designed these juvenile reformatories using elements of Haviland and Kirkbrides designs.

One of the last Kirkbride structures built in the United States was the Fergus Falls Regional Treatment Center in Minnesota which opened its doors on July 29, 1890. Fergus Falls was designed by Minneapolis architect Warren B. Dunnell who went on to build: The Minnesota State Reform School at Red Wing which formally opened in 1891.

Preston School of Industry original buildings design is based on Red Wings. Prestons architecture style was also influenced by Henry Hobson Richardson in the late 19th century and it is both eerie and spectacular. Inmates were housed in this intimidating decaying structure until 1960 when new facilities were completed. Preston Castle as it known today first opened for business on July1, 1894. Prestons name was later changed to Preston Youth Correctional Facility in 1999, a more fitting name, and it held its closing ceremony on June 2, 2011 under heavy public pressure for its alleged abuse of inmates.

Other notable architects and their work include:

Architects Bell & Hackney Southern Illinois Penitentiary drew on both Haviland and Kirkbride in their design of Southern Illinois Penitentiary 1878 now called Menard Correctional Center.

Levi Tucker Scofield a prominent Cleveland, Ohio architect designed two Kirkbride asylums the Athens Lunatic Asylum in Athens, Ohio, and the Asylum for the Insane in Columbus, Ohio.

Scofield also designed Central Prison, a massive prison in North Carolina shortly after the Civil War. CPs castellated style architecture evoked a popularly understood sense of protective, militant architecture.

Finally the Ohio State Reformatory (OSR), also known as the Mansfield Reformatory was built on his design in 1896 and was the site of the movie Shawshank Redemption.

Kirkbrides proposed role of asylum architecture was the polar opposite of the one Havilands professor, James Elmes, purported for prison design when he said the external aspect should be made as gloomy and melancholy as possible.

The Construction of Hospitals for the Insane (1854)

CHAPTER XXII

POSITION, AND GENERAL ARRANGEMENTS OF THE BUILDING

Excerpts:

The building should be in good taste, and impress favorably not only the patients, but their friends and others who may visit it. It should have a cheerful and comfortable appearance, everything repulsive and prison-like should be carefully avoided, and even the means of affecting the proper degree of security should be masked, as far as possible, by arrangements of a pleasant and attractive description. Nor is the influence of these things on the friends of patients unimportant, they are thus led to have a generous confidence in those to whose care their friends have been entrusted, and a readiness to give steady support to a liberal course of treatment.

CHAPTER XX

CHARACTER OF PROPOSED PLANS

State hospitals are not for the pauper portion of the community alone, but for every class of citizens, and all who pay taxes aid in their erection, and therefore have the right to participate in their advantages.

There are, indeed, several variations that might be suggested, where it is proposed to provide the most perfect arrangements, without regard to cost, or to furnish accommodations exclusively for the wealthy in a community; for there is no reason why an individual who has the misfortune to become insane, should, on that account, be deprived of any comfort or even luxury, that is not improper or injurious, to which he has been accustomed, or which his income will justify. An insane member of a family, wherever he may be, has really a claim for everything that will contribute to his comfort and gratification, far beyond those who are in health and who have so many other resources; and the justice or morality of a different course, as occasionally observed, cannot for a single moment bear examination.

Not for the pauper portion of the community alone? Does this imply Kirkbride believed it was primarily for paupers? And a cynic reading this today might surmise that the serene design of Kirkbrides asylums was meant to be more of a lure for those with means to pay than a therapeutic tool when one looks at the systems results. A kind of Venus fly trap for the insane.

For, just as ESP mythology was later found to be inhuman, so too were the methods used in our nations asylums.

In 1946 Life magazine did an expose titled Bedlam 1946 on the abusive conditions found inside this nations asylums based on the findings of WWII conscientious objectors who had served as attendants at state mental institutions rather than in the war.

Read the 1946 Life article in its entirety, and see some of the pictures that horrified Americans.

Excerpts:

Abuse and the punitive use of restraints, overcrowding, underfeeding and dilapidation might all be condoned if only these hospitals achieved a reasonable standard of treatment and cure. But the fact is that the vast majority of them fall far below the achievements of the far better hospitals and far, far below what could be achieved if cure rather than mere custody were the primary objective. Given the factsthe people of any state will rally, to put an end to concentration camps that masquerade as hospitals and to make cure rather than incarceration the goal of their mental institutions.

Robert Merton called this goal displacement a common phenomenon within large bureaucracies as the original goal of the bureaucracy is displaced with the goal of continued funding.

As a result of Lifes expose The National Mental Health Foundation (NMHF) was founded and it became an impetus toward deinstitutionalization. The NMHFs push for deinstitutionalization resulted in new laws protecting the rights of the mentally ill. So effective were these laws that even as the number of incarcerated Americans has ballooned to over 2.3 million today the states hospital populations had declined by enough that the total number of institutionalized persons in the year 2000 had barely reached the peak level of 1955 when 640 persons per 100,000 adults over age 15 were held in asylums, mental hospitals, and state and federal prisons. (The total number of mental health patients institutionalized in state hospitals went from 559,000 in 1955, to less than 80,000 by 1999.)

http://www.law.uchicago.edu/files/files/institutionalized-final.pdf

The 1960s

All during the latter half of the 1960s California had been the epicenter of a prison race war for the control the prison yard as well as what has been referred to as The New Lefts Bay Area Radical Prison Movement.

By the time the Summer of Love arrived in 1967 every peaceful -flower-child that was incarcerated had a cross to bear. As he walked bound in his chains through the cruel gantlet, sadistic guards on one side, and leering sexual predators on the other, he may have paused with a tear in his eye to look beyond the ominous watchtower towards the sky to ask Why has thou forsaken me?

Even as the casualty count, of inmate on inmate violence increased as the decade ended, it had been almost twenty years since a guard had been killed in a California prison, but that was about to change.

The 1970s:

The so called Soledad Incident of January 13, 1970 was a game changer. In response to the shooting deaths of three black inmates and the wounding of one white inmate by a lone, white prison guard during a brawl on the yard, inmates declared they would retaliate for this and any other such incident. From that day forward the war expanded to include prison guards and within a few months a dozen guards had been killed in San Quentin, Soledad, and Folsom.

As guards themselves became targets nationwide they called for the isolation of the gang ring leaders. The California Corrections Officer Association, CCOA, demands for Secure Housing Units fell on the sympathetic ears of the prison administrators and steps were taken to build them.

1980s

Between January 1980 and October 1983, there were more serious disturbances at the federal prison in Marion, Illinois than at any other prison, including fourteen escape attempts, ten group uprisings, fifty-eight serious inmate-on-inmate assaults, thirty-three attacks on staff, and nine murders.

Then after the killing of two Marion prison guards in two separate attacks on October 22, 1983, Marion, already a level six facility

since 1979, instituted a 24 hour lock down of the entire prison population. The Supermax prison concept was thus established and the concept spread rapidly across the country leading to the current crisis where tens of thousands are held for years, many for decades, within concrete tombs designed for maximum sensory deprivation. Pelican Bay State Prison, CA the first specially designed supermax prison opened in December 1989.

Pelican Bays system of punishment resembles nothing so much as the system of punishment pioneered at Eastern State. The Pelican Bay Security Housing Unit, which cost California taxpayers a quarter of a billion dollars, is perhaps the most notorious supermax. From the air it looks like a high-tech version of the Philadelphia prison: Its hub-and-spokes design is clearly descended from John Havilands 19th-century architectural plan. Inmates in the SHU (known as the shoe) are kept in their cells close to 24 hours a day. As at Eastern State, inmates eat in their cells and exercise in isolated attached yards. But even at Eastern, each prisoner had access to an enclosed garden, received writing and handicraft materials, and was allowed frequent visits with clergy and other moral reformers.

(SHU prisoners, who spend an average of 5 years in isolation, are permitted no visitors, spend 22 hours/day in a windowless steel cell, and are deprived of all belongings and all contact with the outside world).

Accountability in such control units both demand responsibility from an inmate and undermine their ability to respond. It shifts the weight of responsibility away from the prison system and onto the inmate who is often assumed to be incorrigible, whether or not they are actively fighting the system. The inmate once classified as a security risk has their negative actions duly noted daily while at the same time whenever he overlooks an injustice inflicted upon him this bears no weight at all. The inmate is thus held responsible for any resistance but is given no credit when they are compliant in the face of injustice. The more extreme the isolation of a control unit, the more difficult it becomes for the inmate to make good choices or to bear the consequences of his poor choices. Inmates are in a Catch-22 situation where they often cant follow the rules even if they want to, are punished whether or not they break the rules, or are legitimately under such a threat that they are forced to defend themselves and are then dealt even harsher punishment. The inmate is told to conduct himself as an individual while under near-total control of guards, and threatened by gangs enforcing their own code of conduct upon him. He is told to reflect on the consequences of his actions in an environment that has been proven to produce cognitive impairment and mental illness. He is told that he needs to become a good citizen while at the same time he is denied the right to interact socially. In short, the supermax inmate is set up to fail.

Not surprisingly then the violence has not stopped. That is because much of the violence in our prisons, now as in the past, is perpetrated by uncontrolled gangs of guards. These abuses are not just slipups at such locations as Pelican Bays SHU. After all Pelican Bay was designed on a principle of grossly inhuman treatment.

1990s:

Then ADX in Florence, Colorado opened in November 1994. A building boom of such facilities soon followed and today 44 states are holding over 25,000 inmates in supermax prisons. Another 81,622 are in some kind of restricted housing under similar conditions. As of Jan 2003 forty-one states have supermax units that resemble Pelican Bay containing over 20,000 inmates.

This article points out that:

Scientific studies of solitary confinement and its damages have come in waves, first in the mid-19th century, then in the 1950s, as a response to reports of prisoner isolation and brainwashing during the Korean War. The renewed popularity of solitary confinement in the United States has spurred recent research.

Consistent patterns emerge, centering on extreme anxiety, anger, hallucinations, mood swings and flatness, and loss of impulse control. In the absence of stimuli, prisoners may also become hypersensitive to any stimuli at all. Often they obsess uncontrollably, as if their minds didnt belong to them, over tiny details or personal grievances. Panic attacks are routine, as is depression and loss of memory and cognitive function.

Prisoners in isolation account for just 5 percent of the total prison population, but nearly half of its suicides.

When prisoners leave solitary confinement and re-enter society something that often happens with no transition period their symptoms might abate, but theyre unable to adjust. Its been called the decimation of life skills because It destroys ones capacity to relate socially, to work, to play, to hold a job or enjoy life.

Those least likely to become mentally ill in solitary confinement are prisoners who can read, because reading prevents the boredom that can lead to insanity. (The human psyche appears not to have changed since the days of Eastern State, when an inmate told Alexis de Tocqueville that reading the Bible was his greatest consolation.) Because roughly 40 percent of U.S. prisoners are functionally illiterate, however, reading can provide solace and sanity to only a fraction of those behind bars.

We didnt get here overnight over two centuries ago the American doctrine of civil death helped pave the way for the present day advocates of capital punishment, minimum mandatory sentencing, three strikes laws, and the less-than-fully-human status of prisoners all of which contributed to the current crisis.

In the era of social media where is the moral outrage displayed in the mid-19th Century over solitary confinement or the in late 1940s over the horrible conditions in the nations asylums? Have we lost our compassion for our fellow man/woman?

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