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Criminal Justice Issues and Prisoners' Rights

<https://solitarywatch.org/2011/09/08/a-form-of-torture-testimony-of-laura-magnani-on-solitary-confinement/>

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by [Sal Rodriguez](#) | September 8, 2011

Laura Magnani, Interim Regional Director of the American Friends Service Committee in San Francisco, testified before the California Assemblys Public Safety Committee on the issue of solitary confinement. Magnani speaks about the findings of the Commission on Safety and Abuse in Americas Prisons, the circumstances of women in solitary confinement, and argues that prolonged solitary confinement is an act of torture in violation of international standards. She ends her remarks by recommending an end to the ban on media access to California Security Housing Units (SHUs) and for setting limits on how long someone can be in isolation.

A Word Document of this testimony can be downloaded here: <https://solitarywatch.org/wp-content/uploads/2011/09/laura-magnani.docx>

Statement of Laura Magnani at Hearing of California Assembly Public Safety Committee, August 23, 2011.

I've been asked to address the issue of torture related to security housing units. I also brought with me, for distribution, the American Friends Service Committee study: *Buried Alive: Long Term Isolation in Youth and Adult Prisons* which I wrote in 2008. Although I have been working on these issues since the 1970s, I was shocked when I began to gather these statistics:

The Commission on Safety and Abuse in Americas Prisons, co-chaired by John Gibbons and Nicholas Katzenbach, found that there were 80,000 prisoners in long term isolation around the country (in 2000), a 40% increase from just five years earlier. Most experts today are putting the number at 100,000 nationwide. Our research found that California houses close to 4,000 prisoners in security housing units and close to 14,500 in some form of segregation administrative, psychiatric, protective custody etc. You'll find these figures broken down on page 6 of our report. These are shocking statistics, especially given the fact that the state is very hard up for money and it costs twice as much, or more, to hold people in these settings.

Over 240 of the people in isolation are women. They face particular hardships because women have special needs, and because of the extreme lack of privacy. When male correctional personnel have 24 hour access to women's most intimate functions, it creates an extreme form of oppression, and often trauma, that is made all the more acute because of the number of women in prison with long histories of abuse at the hands of men. This may seem contradictory, in that we are talking about isolation and then at the same time we are talking about lack of privacy. But you can see what I am saying, that even in their isolation they can never escape the surveillance cameras or the slots in cell doors that give full view of women's every move. Covering up these slots results in disciplinary measures.

Definition of Torture

Although officials often claim that there is no clear definition of torture, that is hardly the case. Torture is defined by the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to read: any state-sanctioned action by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for obtaining information, punishment, intimidation, or for any reason based on discrimination.

By this definition, security housing units fail on several counts: they cause severe pain both physical and mental; they do so often, or even primarily, with the hope of extracting information, and for the purpose of intimidation; and they are the most racially segregated part of the prison system. Though statistics are not released about the racial breakdown in these units, our estimate is that the people held there are over 90% people of color. This is because they are used largely to control what is judged, by prison officials, to be gang-related matters, although no distinction is being made between actually gang activity, and simple association, or alleged affiliation. The UN Human Rights Commission, responsible for implementation of the Covenant on Civil and Political Rights has specified that prolonged solitary confinement is prohibited as a form of torture.

What specifically are we talking about?: The absence of meaningful physical exercise, as well as any physical touching for years on end, constitutes torture; The absence of daylight, and instead the constant harsh overhead light that never goes off, and deprives a person of knowing day from night; The constant noise, or in other cases deadening silence, also contribute to a sense of torture.

In addition to the units themselves violating the definition of torture other practices associated with these units also involve torture such as violent cell extractions, three-point restraints or hog tying and most recently a practice called contraband watch that puts prisoners into

diapers, leaving them in their own waste for days at a time. Not only do these practices violate the international treaties, they violate our sense of human decency.

The justification is always that the prisoner may have engaged in some kind of violent behavior. However, the Convention Against Torture is very clear about such justifications:

No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency may be invoked as a justification of torture.

I want to end by making a couple of legislative recommendations that begin to move the state away from torture. The first is something that the legislature has passed several times already, but has always been vetoed, which is to restore the right of reporters to enter these facilities and interview prisoners not just hand selected prisoners chosen by the prison administration. Free press is one of the most important safeguards we have against abuse.

Secondly, I would recommend implementing limits on the amount of time people can be held in isolation. Even in Abu Ghraib, where there is widespread agreement that torture was the norm, prison officials had to get special permission to keep someone in solitary for more than 30 days. Short of an actual time limit, there must be due process, with access to attorneys and an independent judge that is not just an internal administrator to determine if a person will be isolated beyond the limit, with a similar process occurring every few months if the sentence is prolonged.

Sal Rodriguez was Solitary Watch's first and most prolific intern. Based in Los Angeles, he served as an editorial writer and columnist for the Orange County Register and the Press-Enterprise, and is now the opinion editor for the Southern California News Group.

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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She wrote: I have been working on these issues since the 1970s. Like her I am amazed not at the lack of progress made (there has been none) but rather in the deterioration of prison conditions after so many years of hard work by so many.

This line also caught my eye. Though statistics are not released about the racial breakdown in these units, our estimate is that the people held there are over 90% people of color. This is because they are used largely to control what is judged, by prison officials, to be gang-related matters.

Is she saying that people of color are more involved in gangs or that the system unjustly classifies actions made by people of color as gang-related? Has she found any legitimate reasons for an imbalance?

For instance the CA census:

<http://quickfacts.census.gov/qfd/states/06000.html>

California 2010 demographics:

Persons of Hispanic or Latino origin, 37.6%

White persons not of Hispanic origin, 40.1% (This does NOT mean Anglo Saxon rather many diverse groups such as Jews, Iranians, Arabs etc. are classified as white. CA has a substantial numbers of each group.)

http://en.wikipedia.org/wiki/Prisons_in_California

The (prison) system, like the state as a whole, lacks a racial/ethnic majority among the population, with Hispanic inmates making up approximately 37% of the population, African American and white inmates each representing about 27%, and other inmates representing 8% as of 2006.

So if the numbers in the SHU would be equal to the population in prison it would mean $37\% + 27\% + 8\% = 72\%$ people of color and 27% white.

That doesn't sound like such a dramatic imbalance when we know the actual numbers.

It is only the higher percentage of blacks and lower percentages of whites incarcerated that differ from the total population numbers of the state. There is room for debate as to why, with racism playing a role but not an exclusive one.

And then there is this line in the article: Our research found that California houses close to 4,000 prisoners in security housing units and close to 14,500 in some form of segregation administrative, psychiatric, protective custody etc. Over 240 of the people in isolation are women. They face particular hardships because women have special needs, and because of the extreme lack of privacy.

Again not to minimize the special issues of women but according to these numbers the overwhelming majority held in isolation are male. It should be obvious that the mixing of the sexes is wrong and leads to these issues. The flip side of this privacy issue is that male inmates often expose themselves to female guards. Also many guards of both sexes engage in illegal sexual relationships with inmates. The solution is just as obvious: males should guard males and females guard females. Privacy is always lacking in these places and no one including males like the lack of it.

All her other statements are right on.

Let's not get side-tracked with race and gender issues and stay focused on human rights. Or is using race and gender the only way to motivate the masses?

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