

# Solitary Watch

## Criminal Justice Issues and Prisoners' Rights

**<https://solitarywatch.org/2011/10/06/federal-judge-rules-28-years-in-solitary-confinement-not-extreme-dismisses-silverstein-case/>**

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close

Search

close

close

by [James Ridgeway and Jean Casella](#) | October 6, 2011

Thomas Silverstein, plaintiff in a potentially groundbreaking case challenging his more than 28 years of extreme solitary confinement under a no human contact order, has had his case dismissed by a Federal District Court judge in Denver.

Silverstein's student attorneys at the University of Denver law school had argued that their clients' decades of utter isolation in the depths of the federal prison system constitute cruel and unusual punishment, and also violate his right to due process. But Judge Philip Brimmer, in the ruling issued on Monday, declared that Silverstein's conditions of confinement at the U.S. Penitentiary Administrative Maximum, or ADX, are atypically extreme.

Reporting in Denver's [Westword](#), [Alan Prendergast](#) notes that Silverstein's journey through the federal prison system has been anything but typical:

[Silverstein] was convicted of four murders while in prison; one was later overturned. He's now serving three consecutive life sentences plus 45 years. The last killing, the 1983 slaying of a federal guard in the most secure unit of what was then the highest-security federal pen in the entire system, put him on a no human contact status that lasted for decades. For close to seventeen years he was housed in a specially designed, Hannibal-Lecter-like cell in the basement of Leavenworth where the lights were on 24 hours a day. In 2005 he was moved to a highly isolated range at ADX, as first reported in my feature [The Caged Life](#)

Since Silverstein first filed his lawsuit in 2007, with assistance from [student lawyers](#) at the University of Denver, he's been moved from his tomb in Range 13 to D Unit, which is considered general population at ADX. Inmates are still in solitary confinement and have meals in their cell, but they also have access to indoor and outdoor recreation and can shout to each other. That lessening in the general degree of Silverstein's isolation seems to have been one factor in Brimmer's decision to dismiss the former bank robber's claims of enduring extreme deprivation and lack of any social contact.

U.S. Bureau of Prisons officials maintain that Silverstein's placement in isolation is necessary because of his own extreme behavior. Plaintiff's disciplinary record, in addition to the aforementioned murders, shows assaults of three staff members, a threat to a staff member, an attempt to escape by posing as a United States Marshal, and the discovery of weapons, handcuff keys, and lock picks in plaintiff's rectum, Brimmer notes.

But Silverstein hasn't been cited for a disciplinary infraction since 1988, and even the BOP's psychologists have rated the 59-year-old prisoner as having a low risk of violence for years.

On his official [website](#), maintained by outside supporters incarcerated since the 1970s, he hasn't had much opportunity for surfing the Internet. Silverstein reports that he's still being moved frequently from one cell to another to prevent any kind of ongoing communication with other prisoners. ALL they care about (obviously) is maintaining my ISOLATION, by any convoluted means necessary, he writes.

Judge Philip Brimmer had set a court date for Silverstein's trial in January, but has now ruled in favor of a motion by the federal Bureau of Prisons to dismiss the case. Silverstein's lawyers, under the leadership of Laura Rovner at the University of Denver law school's Civil Rights Clinic, are consulting with their client and have not yet commented on the decision or their future plans. One possible next step would be an appeal of the judge's decision to the Tenth Circuit Court of Appeals.

For more on Silverstein's conditions of confinement, see [America's Most Isolated Federal Prisoner Describes 10,220 Days in Extreme Solitary Confinement](#). For details on the Silverstein case, see [Fortresses of Solitude](#).

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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Hes white pride, neo-nazi scum. Hard to empathize with his situation.

KyQuan You wrote:

If prison life was tougher, people will be deterred from committing these heinous crimes against their fellow neighbors Prisons should be tougher I would subject myself to such punishment should I commit those crimes. I think everyone here agrees that the world would be happier if certain people were not around. What is stopping us from eliminating those who aggravate us? Were leaving them in a cell with food and water while they wait for the time when God thinks they can submit themselves to judgment. First I doubt your conviction to willingly subject yourself to such extremes. But even if you are into sadomasochism this doesnt mean you have, or should have, the right to subject others to your will.

I quote from a undated letter to Henry Lesser from Carl Panzram warts and all, *Lustmord: The Writings and Artifacts of Murderers*, p. 202, (1997), Brian King, ed. ISBN 096503240X

You know that I spent several years in one of those places [reform school] when I was a boy and the so called Training that I recieved while there is mainly the cause of my being the degenerate beast that I am today. I have thought about that system of Training young boys for all of my life and I know that the whole system is wrong. That system of beating goodness, religeon and Jesus into boys in the 99 times out of 100 has the direct opposite effect of taking all of the goodness, kindness and love out of them and then replacing those with hate, envy deciete, tyranny and every other kind of meanness there is.

I hope youll take the time to watch this excellent Oliver Stone movie on these two individuals one a guard the other a crazed killer the tile is *Killer: A Journal of Murder* starring James Woods.

<http://www.youtube.com/watch?v=mh03ktloDsk>

When you reach around the 40 minute mark pay attention to what happens after they let Panzram out of Solitary Confinement. This is part of the story that reminds me of Thomas Edward Silverstein and CO Clutts.

I can only hope after watching such a true story your views will be altered. If not and the masses believe as you do then god help us as a society!

I live in a world with rules and procedures. I hope you do too. The following argument pertains to murder cases that have been substantiated by several pieces of evidence. Kill someone, go to jail. That is the direct consequence of such action. Jail should be used as a deterring mechanism in society. If prison life was tougher, people will be deterred from committing these heinous crimes against their fellow neighbors. I dully note that prison life as it exists now is tough with gangs and violence that run rampant. That is no deterrence for those who are tough. That is not going to deter those who have the capabilities of climbing to the top of the food chain. Prisons should be tougher. I stand by what I say because I know I do not want to be the man standing behind those bars. I would subject myself to such punishment should I commit those crimes. I think everyone here agrees that the world would be happier if certain people were not around. What is stopping us from eliminating those who aggravate us? The consequences of our actions far outweigh the short-lived benefits. For a guy like me, I definitely will not last in jail. But I know for a fact a handful of people can last in jail. For those people who do not fear jail time, solitary confinement is the only option. Why should one enjoy the benefit of having contact with another human when the victim cannot? For those religious people out there, were not sentencing anyone to death. Were leaving them in a cell with food and water while they wait for the time when God thinks they can submit themselves to judgement. My argument stands as it is with several exceptions, i.e. mental illness, etc.

Within weeks after Clutts death Silvertin was whisked away to USP in Atlanta, Georgia.

In August 1984 the director of the BOP issued a memorandum detailing the special security procedures for Mr. Silverstein which ordered BOP staff to isolate Silverstein from any and all contact with fellow inmates and prison staff for an indefinite period of time.

During the first year Silverstein was not allowed, social visits, to use the telephone, watch television, listen to the radio, or have any reading materials other than a bible not even a clock. The guards even refused to speak to him.

Silverstein wrote:

The cell was so small that I could stand in one place and touch both walls simultaneously.

The ceiling was so low that I could reach up and touch the hot light fixture.

I became sensitive to light, which burned my eyes and gave me headaches.

The buzzing noise was maddening, as there often were no other sounds at all.

During the summer, the heat was unbearable. I would pour water on the ground and lay naked on the floor in an attempt to cool myself.

My bed took up the length of the cell, and there was no other furniture at all.

I was allowed one hour a week of outdoor recreation. I could not see any other inmates or any of the surrounding landscape during outdoor recreation. There was no exercise equipment and nothing to do.

Because of the cells size construction soon began to expand and harden it.

Silverstein wrote: I was permitted to wear underwear, but I was given no other clothing.

In order not to be burned by sparks and embers while they welded more iron bars across the cell, I had to lie on my bed and cover myself with a sheet.

It is hard to describe the horror I experienced during this construction process. As they built new walls around me it felt like I was being buried alive. It was terrifying.

When construction was finished Silverstein had three, linked 42-square-foot, windowless cells set apart from the rest of the prison population and designed to minimize his contact with prison staff.

I lost some ability to distinguish what was real.

I heard people who I believed to be officers whispering into my vents, telling me they hated me and calling me names. To this day, I am not sure if the officers were doing this to me, or if I was starting to lose it and these were hallucinations.

I felt like I was in an episode of the twilight zone. I now know that I was housed there for about four years, but I would have believed it was a decade if that is what I was told. It seemed eternal and endless and immeasurable.

In 1987, after a prison riot, the BOP relocated Silverstein to the basement of USP Leavenworth. The conditions in the basement unit were substantially similar to those he experienced at USP Atlanta. While in this rat infested basement cell, he could hear no sounds of human activity in the prison only the constant buzzing sound of fluorescent lights on 24/7 without any access to fresh air or sunlight through recreation or otherwise.

After a year in the basement cell, the BOP transferred him to the hole separate from the rest of the facility, where he was the only prisoner housed there.

Here the conditions of his incarceration remained substantially the same as those he experienced in the basement unit and at USP Atlanta: he was isolated from other inmates and staff, was subjected to continuous lighting and camera surveillance, and exercised and ate alone in an 144-square foot cell with a bed, shower, desk, television, and toilet and a separate cell used as an indoor recreation area and a visitation booth.

His phone privileges grew from one call per month, when he first arrived, to 300 minutes per month by the time he left USP Leavenworth. While held there he was provided with one hour of outdoor recreation in a confined, secure space five days of each week. However the staff would sometimes leave him in this outdoor recreation area for extended periods of time in the snow and bitter cold.

During his time in isolation, he used art as a way to ameliorate the extreme sensory deprivation and social isolation.

Except for a period of time during December 2002 and January 2003, in which he was again temporarily housed in the basement cell, he remained in this cell for 18 years.

Then on July 12, 2005, the BOP transferred him to the USP Administrative Maximum facility, also known as ADX, in Florence, Colorado the most restrictive institution in the BOP.

There the BOP had replicated the isolation and other conditions of confinement Silverstein had continuously experienced since his 1983 transfer to USP Atlanta. His contact with fellow inmates and prison staff remained very limited.

Incredibly he actually lost some of the privileges at ADX that he had been previously given at USP Leavenworth; his telephone usage and social visits were reduced and he was given less access to the art supplies he used as a coping mechanism.

While housed on Range 13, he left his cell only for semi-annual reviews and infrequent haircuts and then he was subject to invasive strip

searches both upon exiting and returning to his cell.

He remained on Range 13 until April 7, 2008, when he was moved to ADXs general population unit, known as D-Unit.

Although D-Unit is a general population unit, its inmates are still held in solitary confinement. D-Unit is configured to minimize contact between inmates and between inmates and staff. Inmates on D-Unit eat and are allowed two hours of, indoor or outdoor exercise each weekday alone. However, during his time on D-Unit, the BOP has often cancelled his scheduled recreation time.

Initially more restrictive conditions were placed on him than those placed on other inmates in the unit. For example, for several months following his transfer to D-Unit, he was housed and allowed recreation only in areas where no other inmates were nearby. Furthermore, he was escorted by three correctional officers including a lieutenant while other inmates were accompanied by only two COs. Finally, while other inmates receive social and legal visits on Thursdays, Fridays, Saturdays, and Sundays in the presence of other inmates, he was restricted to Mondays, Tuesdays, and Wednesdays and outside the presence of other inmates.

Presently only the added visitation restrictions remain in place.

In Dr. Hanleys declaration:.

Part 2

Silverstein is caught up in several custodial Catch 22s.

Page 41:

Assessment of his level of threat is based on his past conduct and the absence of any meaningful change in his cognitive orientation.

(In other words Silversteins resilience to the torture was evidence, in this BOP employees mind, that Silverstein had not been broken and remained a danger.)

Page 56:

..the perceived need for this extraordinary treatment of Silverstein was based primarily if not exclusively on something Mr. Silverstein could not of possibly of changed over the past 22 years: his criminal history, his past.

Dr. Hanley rightly points out that Silverstein has had ample time and means to cause the BOP problems and a very good reason to do so in the frustrating task of dealing with all these custodial Catch 22s.

Judge Philip Brimmer ruled October 5, 2011: Conditions at the U.S. Penitentiary Administrative Maximum, or ADX, arent atypically extreme.

Silverstein isnt subject to the special administrative measures reserved for convicted terrorists at ADX, which severely limit their ability to communicate with any outsider, even family or legal counsel. But as you just read his journey through the federal prison system has been anything but typical.

Silverstein reports that hes still being moved frequently from one cell to another to prevent any kind of ongoing communication with other prisoners. ALL they care about (obviously) is maintaining my ISOLATION, by any convoluted means necessary, he writes.

So by allowing Silverstein ever so slightly more communication with people than convicted terrorists, no matter how draconian the rest of his living conditions may be, this allows this judge to claim Silversteins condition is not atypically extreme.

And by shuffling their cells, and carefully selecting those within ear shot of each other, the guards keep even shouting between cells to a bare minimum. The BOP has placed rivals nearby to agitate and informants, with questionable credibility, to report on the give and take between Silverstein and others. The informants have everything to gain by inventing or embellishing the goings on between such high profile prisoners. All of this, and well placed microphones to record it all has turned up nothing to indicate Silverstein still remains a threat today.

Mail: Silverstein states his mail is still censored by SIS unlike some of the other inmates around him. This procedure leads to bureaucratic delays of his incoming and outgoing correspondence. In addition he claims that there are frequent intentional or unintentional delays in his mails scheduled pickup and delivery. These delays can lead to significant legal problems when his mandated filing deadlines are not met. He also claims that a legal document from his defense team which was marked to be opened only in front of Mr. Silverstein had arrived to him already opened by the SIS staff. And if such legal correspondence does miss its deadline the judge is more often inclined to believe the COs denial of interference then his claim of wrong doing.

Visits: Silverstein says, mail meddling is part of their desire to cut me off from the outside worldonce they alienate you, they try to break your hopes, then your resistance. I didnt get any visits for about 10 years, because of the draconian policy that says were not allowed visits from anyone we didnt know prior to prison.

After 35 years of incarceration at a location far from his prior home and family Silverstein receives very few visits from his ever shrinking pool of relatives and old friends. Referring to this dilemma Silverstein asks How many folks still know people from that long ago? Only once in the last 27 years has Silverstein ever been allowed to add one very special person to this list.

He goes on to state The BOP policy statement claims to encourage visits to maintain family and social ties, but its only a ploy to fool the public when in reality they do just the opposite.

He gives this example as evidence; Once my baby sister came to see me all the way from California, and the gate guards at first wouldnt let her in.

Finally Silversteins ability to mount a robust legal defense to end his isolation is hindered by, poor education, difficulty in accessing legal materials, and his unfamiliarity with computers. (He is allowed only 2 hours at a time on the legal computer with no law books available.)

It is clear to this reader that the BOP planned the easing of his prior atypical no human contact status to side step the law suit.

TYour not alone:

[http://blogs.westword.com/latestword/2011/10/prison\\_rape\\_colorado.php#more](http://blogs.westword.com/latestword/2011/10/prison_rape_colorado.php#more)

I can tell you, from experience (20+ years working as a correctional officer) that prison rape does occur in the Colorado Department of Corrections. most importantly, STAFF ARE DISCOURAGED FROM REPORTING it. Not officially of course, but there is a certain amount of STIGMATIZATION PLACED UPON STAFF WHO DO report it.

During my time with the CDOC I encountered more inmate on inmate and staff on inmate rapes than I can even count.

I REPORTED SOME OF THE BAD THINGS I WITNESSED AND I WAS PUNISHED SO I STOPPED MY SENSE OF SELF-PRESERVATION OUTWEIGHED MY NEED TO PROTECT ANYONE ELSE.

Well your admissions of a corrupt system is not exactly an endorsement.

Without media access and/or outside panels making surprise visits or a mole in every hole :)

the system is not credible.

Thanks for laying it all out.

Read my comments on the other form as well.

Silverstein nor any other inmate is receiving a fair hearing of their case because the data is being rigged to protect the status-quo and peoples perverse jobs.

Little hope for this group of humanity in the current system.

@Alan and my focus has always been the mentally ill if you remember our first conversations.. The SMI dont belong in a SHU. that is what I said that is what I meant there difference between the severely mentally ill and behavioral offenders are day and night.. Please keep that in mind..

@Alan I never denounced the concept of the SHU I denounced the irregularities, the extremism of some of the mission creep I have identified and the pockets of abuse and neglect that are randomly endorsed by many administrators- hence read this: posted = Solitary Confinement is a hot subject nationwide the practice is under fire and there are recorded abuses under such practices. The problems are almost always related to non-compliance to written policies and procedures, deviations from policies that include behavioral modification methods not sanctioned and tacit approval for variances not documented making it hard for the courts to accurately track operational issues not in writing and protected by the code of silence. Short term placements are effective up to a point once a prisoner knows he is going to be there long term, his behavior is no longer in check [as he lost hope] and he becomes rebellious in behavior seeking no resolve and personal satisfaction of being a trouble maker which in turn results in him being treated in an extreme manner to commensurate his noncompliance issues.

This is where there are dangers of abuse, neglect and torture as the oversight is limited, not documented and random in nature. The culture is us versus them with both sides pulling no punches [no pun intended] and escalation of mistreatment occurs first in passive aggression elevating to physical contact and unnecessary cell extractions, strip searches etc.

The reasons the courts cant determine the extreme part is that it doesnt exist just like torture doesnt exist. This underground culture wont reveal their flaws in a public forum or courtroom. Affidavits and incident reports are coached, these incident reports are cleaned up after numerous drafts and disciplinary is swift to avoid others from thinking about talking about it at all. Special focus is on the FOIA regulations that allow public discovery of public documents and items thus certain documents become classified, videos are lost or tampered with statements are perfected to play off any signs of condoned unlawful behaviors. This is why the correctional officer is so empowered as they feel they are invincible and protected by the top to avoid embarrassment of their administration in central office. Have you ever noticed when an investigation goes south, the warden is fired? This is the nail in the coffin for anyone else that talks. Normally the hits are at the bottom but in cases where an outside agency finds flaws, the warden gets the ax to save face.

Administrators are taught from the beginning two things: internal controls and external controls internal controls (institutional culture and practices) are how the incident is handled, documented, released and revealed before it leaves the facility. This information is cleaned up before the press release to the media which represents the external control element of the event. Other external control (politics) is collected of external audits, investigations, media, legislature and executive branch revelations and findings. If the justification is properly made and timely in response, the top echelon remains unscathed and the bottom gets the heavy handed hammer of discipline.

The air of intimidation is on both sides. Officers and prisoners been pressured to remain quiet and it works. Credibility is slurred as good officers are discredited if they speak out against the system. The only way you will discover the truth is through a mole in the system that keeps a log of the events as they occurred.

NOTE: the code of silence protects both the guilty and the innocent the team remains intact and the brotherhood remains intact protected by select upper management who endorse such extreme practices but defend them in a public forum. Administrators get promoted for following the program and the practice continues to exist as the morality suffers and new rules are imposed with every successive administrator and supervisor that works the SHU or SMU

I hope we are clear Alan I don't condone torture, abuse or neglect I despise the Code of Silence and administrators who abuse their power and their position. I know that short term isolation is effective but long term is self-defeating I worked hard to find step down criteria that worked and support reduction of custody levels with established criteria and eligibility factors already established by a national scale I share insight to educate not to criticize or suggest right from wrong I hope I am clear on my stand as my insight is based on realities and experience. I am retired and find the methods of mass incarceration unacceptable. States need to find alternatives to locking people up especially first nonviolent offenders and drug users.

For the record I retired and found that after getting out of this environment for a period of time, I could again smell the fresh air again, I can see the forest and the tree, smell the coffee and enjoy the roses Corrections over time desensitizes the senses as well -the deaths both suicides and homicides, the self-mutilations, the physical and mental assaults, the pain and the stress is on both sides of the coin it changes the psyche of both and although the employee gets to go home, they both suffer from PTSD, stress, anxiety, disease, injuries and illnesses, broken promises, betrayal and bullying yes sometimes the loyalties [former friends and coworkers] pull at me but not for me join them again but to ridicule me for speaking out about something so sacred and so secret in a public forum, it is hardly ever printed. By sharing and being honest about conditions inside the prisons I have a burn notice that will forever burn my name

@Carl-Just how did this system come into being. Unlike you I have no personal experience in a SHU so I read and quote those that have direct knowledge.

By the way I agree short term isolation (not decades) is useful. But even then with independent oversight.

Eric Cummings The Rise and Fall of Californias Radical Prison Movement:

In 1970 Warden Nelson had served on the Committee on Riots and Disturbances of the American Correction Association. The first firm decision the group came to was that convict ringleaders must be removed and isolated from the general population before an opportunity to carry out their plans presents itself.

In other words, troublemakers were to be identified and punished before they committed any offenses.

Now that might give you an attitude if you're falsely accused huh?

Since Silverstein was in Marion when he killed Clutts I researched it.

Resisting Living Death, at Marion Penitentiary, 1972 Alan Eladio Gomez

Page 78-79: Beginning in 1972, with the institutionalization of the CU against politicized prisoners, the contradictory relationship between mid-century rehabilitation models and incarceration finally ruptured. Once inmates could be legally defined as lacking political rights under emergency conditions, the possibility for rehabilitation had no reference from which to define or measure change, a dehumanizing situation that ruptured the link between existence and rights, life and dignity, and a direct response to the political action, collective educational projects, and extramural support of the prison rebellion years.

In 1972, the CU was used for overtly political purposes to control the organized dissent that targeted the behavior-modification programs at Marion, and to cut off communication with supporters outside the walls in the 1973 Adams v. Carlson ruling that the administrative use of isolation did not constitute cruel and inhuman treatment marked an important moment in the social acceptance, even expectation, of the use of cruel and unusual punishment and permanent isolation units as central logics of terror within the prison regime.

The late Howard Zinn warned in his book Peoples History of America:

Page 635: the Establishment cannot survive without the obedience and loyalty of millions of people who are given small rewards to keep the system going. These people, the employed, the somewhat privileged are drawn into an alliance with the elite. They become the guards of the system, buffers between the upper and lower classes. If they stop obeying, the system falls.

That will happen, I think, only when all of us who are slightly privileged and slightly uneasy begin to see that we are expendable; that the Establishment, whatever rewards it gives us, will also, if necessary to maintain its control, kill us.

The new conditions make it less and less possible for the guards of the system to remain immune from the violence (physical and psychic) inflicted on the black, the poor, the criminal, the enemy overseas.

There is evidence of growing dissatisfaction among the guards.

Carl one minute you are denouncing the system and the next your siding with it.

I guess old loyalties are pulling at you but you need to commit one way or the other.

@Alan I still maintain the importance of following policies and procedures based on best correctional practices. Training and cultural understanding can break down some of these barriers but with decades of mission creep and eroded principles or values, it would take a very strong leader to accomplish reforms inside a SHU or SMU with the help of good officers who are willing to work hard to change the environment to a more accountable and transparent setting that sends the message that abuse or neglect is not tolerated and consequences are real. This can't be done in a macro setting but through unit management and micro lines of authority by responsible and selected staff. I re-state my first concern break it down to a smaller unit and begin with the fundamentals of good security they can run side by side with good managers supervising the daily events.. The concept has been fruitful and allowed STG prisoners to step down to a lower custody level after being in a SHU or SMU for over 10 -15 years. Bring in a sound process of due process and allow eligibility criteria to be fair and open to those who meet the risk assessment for lower custody placements and program them to begin the process under the scrutiny of the director, the warden and the unit deputy warden.

@Carl Your being quoted in a follow up to Prendergasts article.

[http://blogs.westword.com/latestword/2011/10/solitary\\_confinement\\_thomas\\_silverstein.php](http://blogs.westword.com/latestword/2011/10/solitary_confinement_thomas_silverstein.php)

It seems the prison system has always found ways around rules meant to protect inmates.

In his Westward October 5th 2011 article titled,

Thomas Silverstein: Judge rules conditions at supermax not extreme!

Alan Prendergast writes:

Conditions at the U.S. Penitentiary Administrative Maximum, or ADX, are not atypically extreme, Judge Philip Brimmer ruled.

Silverstein is not subject to the special administrative measures reserved for convicted terrorists at ADX, which severely limit their ability to communicate with any outsider, even family or legal counsel. But his journey through the federal prison system has been anything but typical.

Inmates are still in solitary confinement and have meals in their cell, but they also have access to indoor and outdoor recreation and can shout to each other. That lessening in the general degree of Silversteins isolation seems to have been one factor in Brimmers decision to dismiss the former bank robbers claims of enduring extreme deprivation and lack of any social contact.

Silverstein reports that hes still being moved frequently from one cell to another to prevent any kind of ongoing communication with other prisoners. ALL they care about (obviously) is maintaining my ISOLATION, by any convoluted means necessary, he writes.

So by allowing Silverstein even so slightly more communication with people than terrorists, no matter how draconian the rest of his living conditions may be, this allows this judge to claim Silversteins condition is not atypically extreme.

And by shuffling their cells, and carefully selecting those within ear shot of each other, the guards keep even this shouting to a bare minimum. The BOP has placed rivals nearby to agitate and informants, with questionable credibility, to report on the give and take between them. The informants have everything to gain by inventing or embellishing the goings on between such high profile prisoners. All of this, and well placed microphones to record it all has turned up nothing to indicate Silverstein still remains a threat today.

It is clear to this reader that the BOP planned all this from day one when they moved Silverstein to ADX. Since clearly his prior no human contact status was not typical.

I couldnt help but relate the placement of Silverstein in ADX with the following excerpt from the memoir of Edward Bunker titled Education of a Felon. (Circa 1947)

Page 23: I was sent to Northern California, outside Stockton, to the Preston School of Industry. I had barely turned fourteen. I was assigned permanently to G Company, a unit with a three-tier cell block. It was dark and gloomy and a carbon copy of a prison cell block

Page 24: they were not allowed to keep a youth under sixteen in a lockup cell for more than twenty-nine days at a time. So on the thirtieth morning, they took me out of G Company after breakfast. I checked into the regular company and went to lunch. After lunch they took me back to G Company

How is this case any different?

If articles report Silversteins negative history, which is extensive I would like them to also attempt to include an account of how he developed into this Terrible Tom role as the system labels him.

Here is the relative background information I found that gets to the roots of his development.

On page 144 of Pete Earleys book, The Hot House:

In 1971, at age nineteen, Silverstein was sent to San Quentin for armed robbery.

Lets set the stage Silverstein arrived on. First of all we have to recognize the historical fact that George Jackson has had a major influence on prison race relations even to this day. To many he is the hero of the Prison Movement, a man of action that has made the man pay a price for his mistreatment of black inmates and who has paid the ultimate price in return. But not everyone agrees with this view.

Before his transfer to San Quentin in mid 1971 George Jackson, the founder of the Black Gorilla Family (BGF), a violent, politically driven, prison gang, had been involved in the killing of two guards at the state prison in Soledad, Ca.

Jackson and two other inmates were thereafter known as the Soledad brothers. This notoriety contributed to Jacksons own death in August 1971 when he was shot dead by prison guards during an uprising in San Quentins infamous Adjustment Center. Within weeks after Jacksons death his book Blood in My Eye was published and then quickly banned by prison authorities for its revolutionary message.

How these events affected race relations in San Quentin has been explained by Edward Bunker, who was there at the time in his Feb. 1972 Harpers Magazine article titled,

War Behind Walls. I encourage you to read it in full.

Page 4, a religious doctrine of hate:



what increases racial polarization in prison beyond conciliation is the mutative leap in black militant rhetoric. This rhetoric is heard within prison walls by unsophisticated minds and gives those blacks that already hate whites a rationale for murder.

Everyone understands that blacks have been brutalized by generations of institutional racism, and recently by inertia and indifference. What the sympathetic fail to grasp is that sometimes the psychological truncation is so great that it cannot be repaired. Nothing is left but hate. They have no desire no motivation for anything but revenge

Also from Bunkers Education of a Felon:

For almost two decades no guard had been killed in a California prison. Then within a few months a dozen were killed in San Quentin, Soledad, and Folsom, all by blacks.

Guards, who are invariably conservative and narrow minded at the outset, heard the inflammatory rhetoric along with the murders and saw it as a direct personal threat. If they had been secret bigots, they now turned into outright racists.

Page 266 : For several years before the guards became combatants there had been a race war limited to Black Muslims and the self-proclaimed American Nazis. These erstwhile Nazis were skinny, pimple-faced kids who were afraid that someone would rape them

It was George Jackson who expanded the violence to the noninvolved.

One day he pulled together a crew of three or four and at the after-lunch lockup, led them along the second tier of the South Cell House. There they stabbed every white on the tier, all of whom wore white jumpsuits, for they had just gotten off bus and had no idea they would be attacked for being white. One died, and one vaulted the railing to avoid the stabbing blades broke both his ankles on the concrete below.

War Behind Walls:

Page 5: Men without friends, those trying to quietly serve a term and get out, were in the worst predicament. They had no allies. Warriors stayed together, knew many of their opposition, suspected others from hairstyle, mannerism, and association.

Page 6: The huge cellblocks were silent and motionless as tombs during the evening. Beneath the silence furies were gathering. It had gone too far to end. Whites had to make a showing. If there was no reprisal the blacks would stab and rip off whenever they had the whim.

Is it any wonder Silverstein clicked up? The ABs oath Blood in blood out is binding.

Page 145 of The Hot House: Four years later, he was paroled, but he was arrested soon after along with his FATHER Thomas Conway, and his cousin Gerald Hoff for three armed robberies.

Bureau records show that Silverstein was sent to the Hot House for the first time in March 1977 to serve a fifteen-year sentence for armed robbery.

Page 148: on February 17, 1979, a convict named Danny Edward Atwell stumbled from his cell and collapsed on the tier. He died within minutes. The next day, Silverstein and his prison buddies were charged with murder

The jury found Silverstein guilty and on March 3, 1980, he was sentenced to life in prison and transferred to the penitentiary at Marion.

I was innocent, Silverstein later recalled. I was being framed by these rats who had just flushed my life down the toilet. I was going to Marion with a life sentence, and I had a real attitude problem because I was pissed. I figured I didn't have much to lose.

On appeal a three-judge panel of the U.S. Court of Appeals for the Tenth Circuit said it was appalled by the quagmire of conflicting testimony and recanted statements. The judges ordered federal prosecutors to either dismiss the murder charge against Silverstein or conduct a new trial.

There was no retrial.

The scene at Marion:

Page 228: From the outside, Marion has always looked peaceful. But in 1980 inside there was no such serenity. Between January 1980 and October 1983, there were more serious disturbances at Marion 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.

Because Silverstein had been convicted of killing Atwell, he was assigned a cell in the control unit when he first arrived. At the time, it was the only long-term facility in which prisoners were locked in single-man cells all day and allowed out only to shower or to exercise.

On November 22, 1981, at 7:15 p.m. guards discovered the body of Robert Marvin Chappelle, a convicted killer and member of the D.C. Blacks prison gang.

Some information on this gang can be found in the book The Hot House on Page 105:

The black inmates were from Washington D.C., and were known simply as D.C. Blacks. They were one of the most difficult groups at Leavenworth for guards to control.

When called to the stand to testify Norman Matthews was asked whether he could remember November 22, 1981, he replied, It was the day I killed Chappelle.

Although Matthews had previously given a statement to the FBI confessing to the murder his confession in open court caused a commotion.



Defense counsel said, All right, now, Mr. Matthews, you have right under the Fifth Amendment of the Constitution of the United States not to incriminate yourself. Do you understand that? Matthews replied, Yes.

When the judge finished explaining Matthews Fifth Amendment right to him, Matthews replied, Maybe I should take the Fifth. You convinced me I should protect my rights, sir. The judge then instructed the jury to disregard Matthews testimony.

The judge improperly excluded the evidence of a key defense witness, Norman Matthews. Matthews had been an inmate in C range on the day of Chappelles murder, and had been let out to recreate right after Silverstein and Fountain were returned to their cells.

The jury convicted Silverstein and Fountain of murder, and they were sentenced to life imprisonment.

The lapse in security that allowed Chappelle to be murdered in his cell cannot be passed over in silence. Because many of the inmates confined in Marion are serving long prison terms without prospect of early parole, the deterrent effects of criminal punishment cannot be relied upon to control the crime rate in the Control Unit. The price of murder must not be perceived as being too high and to some it must be close to zero. This makes it essential that the prison authorities protect the inmates from each other.

Page 121: Raymond Cadillac Smith, at the time was the most powerful D.C. Black in prison.

Page 230: Chapples death worried some bureau officials, who feared that it might start a war between the AB and the D.C. Blacks gang. But apparently it did not worry them enough to separate gang members at Marion. In fact, while Silverstein and Fountain were on trail for Chappelles murder, the bureau transferred Raymond Cadillac Smith, the national leader of the D.C. Blacks prison gang, from another prison into the control unit in Marion and put in a cell near Silversteins.

The bureau would later insist it had nowhere else within the entire system secure enough to place Smith, even though guards knew that Chappelle had been a close friend of Smiths and that Smith had vowed to avenge his death.

From the moment that Smith arrived in the control unit, prison logs show that he began trying to kill Silverstein.

On September 6, 1982, guards opened Smiths cell electronically so that he could walk down the narrow tier to the shower stall. En route, he stopped in front of Silversteins cell, pulled a knife from under his towel, and swung at him through the bars

Page 231: A few days later, guards caught Smith trying to shoot Silverstein with a zip gun.

I tried to tell Cadillac that I didnt kill Chappelle, but he didnt believe me and bragged that he was going to kill me, Silverstein recalled.

Everyone knew what was going on and no one did anything to keep us apart. The guards wanted one of us to kill the other.

The following was written by Marion Brother Eddie Griffin.

This is a true story about the eruption of a race war in prison, and about the gladiators that fought them, how they lived and how they died. But of all the prison stories, there is none like the life and death of Raymond Cadillac Smith.

Sampson, that was my image of Cadillac, because he was equally as strong, battle hardened, and roared like a lion whenever he went into combat. And, on a good day, his signature battle cry would rattle the walls and shake all the prison cages.

No wonder, MEN IN PRISON FEARED HIM, both inmate and guard. He was invincible in hand-to-hand combat.

There was this old story about how an assailant once stabbed him in the chest, aiming for his heart. The knife folded like tin foil against an ox hide buff, muscles built by iron on the weightlifting pile. The attacker struck from behind, and when the knife wilted, he fled and sought protective custody in the arms of the nearest prison guard.

Cadillac laughed. He always laughed in the face of his enemies. And, there were times when his psychotic laughter caused even me to quiver.

TO HEAR HIM LAUGH WAS NOT GOOD, NOT GOOD FOR SOMEBODY.

They call prison the belly of the beast, not merely metaphoric, but because it churned like a cauldron sitting on top of the pit fires of hell.

I was there, at USP Leavenworth, sitting on a two-year parole date like a man holding hot gold in the palm of my hands, when the report of Cadillacs assassination came to me by the Moors.

It was said of the Moors in prison that they could kill a man, stash the weapons where no one on earth could find them, wash their clothes and dry them, before prison officials could ever discover the body. As far as I know, the FBI had never been able to pin a murder on a Moors.

I was made an honorary Moor, given a kufi as headgear to wear while attending secret meetings, and being briefed on everything, except the science.

They knew the art and science of killing, Moroccan-style. And, Cadillac was heir to the Sword of Justice, a gleaming curve steel blade about two-feet long.

Page 233: Of all the inmates in the control unit, Silverstein was perhaps the most notorious, particularly after he killed Cadillac Smith On the other side Clutts, one of the tougher guards.

Page 393: Referring to Clutts and Silverstein, Ralph Seever, a legendary lieutenant who had spent his career at Leavenworth and was

revered by guards as the best there ever was explained, Inmates expect guards always to tell them no and punish them when they violate the rules. Its all part of the game,

But you never want, the relationship to get personal. He warned.

Whenever an inmate believes for some reason that the natural conflict between convicts and officers is personal, his ego is at stake, and in a penitentiary, IMAGE IS A THOUSAND TIMES MORE IMPORTANT THAN REALITY.

Page 233: I told Tommy You got to back up from this guy or itll get way beyond a cop versus convict thing itll get personal And thats what happened it got personalreal fast.

To this day, Silverstein claims that Clutts set out to break him by harassing him in a dozen petty ways that most guards learn early in their careers.

In an audio recording of an interview conducted by Earley, Silverstein explains how he warned Clutts to leave him alone.

12:40 Silverstein: He liked to make a point to show off to the other guards.

Earley: Here is the guy that killed Chappelle and Smith and I can be tough with him.

Silverstein: Yeah!

16:25 Silverstein: I think he was just selling me wolf tickets. But he didnt know I was taking him serious.

AS MANY KILLINGS THAT I HAVE SEEN WHEN SOMEONE SAYS HE IS GOING TO KILL YOU, YOU CANT SIT BACK AND SAY AWE IT AINT NOTHING AND DO NOTHING.

When somebody has gone that far especially when youre telling him you dont want no trouble why dont you get off my case.

You know, I PLEADED WITH THAT GUY

25:25 Silverstein: It just added fuel to the fire.

On Saturday morning October 22, 1983, Silverstein preempted any possible of deadly action by Clutts by killing him first.

In his recent apology to the world Silverstein wrote:

There is no justification for what I did.

But there was logic behind his actions, even if it is only understandable by inmates that have been trapped like tethered animals in a slaughter house!

So he has been labeled TERRIBLE TOM by the BOP and it seems,

Labels stick even while people change!

It seems the system has always found ways around rules meant to protect inmates.

In his Westward article on October 5th titled, Thomas Silverstein: Judge rules conditions at supermax not extreme Alan Prendergast writes:

Conditions at the U.S. Penitentiary Administrative Maximum, or ADX, arent atypically extreme, Judge Philip Brimmer ruled.

Silverstein isnt subject to the special administrative measures reserved for convicted terrorists at ADX, which severely limit their ability to communicate with any outsider, even family or legal counsel. But his journey through the federal prison system has been anything but typical.

So by placing Silverstein in the same (extreme) conditions as these terrorists and other inmates at ADX, no matter how draconian they may be, allows this judge to claim Silversteins present condition is not atypically extreme.

It should be obvious to everyone that the BOP planned this from day one when they moved Silverstein to ADX.

I couldnt help but relate the placement of Silverstein in D wing with the following excerpt from the memoir of Edward Bunker titled Education of a Felon. (Circa 1947)

Page 23: I was sent to Northern California, outside Stockton, to the Preston School of Industry. I had barely turned fourteen. I was assigned permanently to G Company, a unit with a three-tier cell block. It was dark and gloomy and a carbon copy of a prison cell block

Page 24: they were not allowed to keep a youth under sixteen in a lockup cell for more than twenty-nine days at a time. So on the thirtieth morning, they took me out of G Company after breakfast. I checked into the regular company and went to lunch. After lunch they took me back to G Company

This is just another example of avoiding the publics wrath and it is totally transparent.

The stakes are extremely high for all inmates if this is decision is allowed to stand.

It means such mental torture is ok if it is not atypically extreme. (Like no human contact?)

If such isolation is widely used it is ok according to Brimmers ruling. Right?

This doesnt bode well for all of us.

congrats to Judge Philip Brimmer for wining one of this year top awards for worlds biggest asshole how dose it feel to know you have shamed the job and oath of justices all over how dose if feel to know your one of the biggest assholes on earth no you know what i think he just won the asshole of the year award thats right from now how we calling him the dishonorbel judge asshole i mean how bout you go try and do a mouth in solitary you may think a lot difrent then this poor man has had good clean records for over 20 years and you saying the bop is right to keep him under such cruel condishons well thats what i call a good reason to disbar your ass from the bech and law at that i like to seee you do 28 years like he did and then say thats nuthing you know why every one says justice is dead why they poke fun at are nashions courts it is assholes like you that wipe your ass with the flag of th usa and use the bill of right like it was tp as well thats why nashions are pissed off at are courts it is judges like you that bring shame to the name and job of justice you bring shame to the good name of justice and even the meaning of justice for all you ser i hope choke on you dam gavil if not then at the least the good lady justice her self should shove it up your ass judges like you make me sick why you want to know judges like you kill are court good name and only shame are nashion and all who stand for justice for all may thare be light in the darknes of justice

ive seen figures of 25000 in solitary confinement in the usa. but i have never seen statistics on how long each prisoner is kept that way or much about their conditions-do they have tv, radio, newspapers, etc?

i assume that the ppl subject to these conditions are mostly depraved and vicious and dangerous. i doubt whether they are there for political reasons- or at least i HOPE we havent sunk that low ourselves

never the less, i dont think we, as a society, should be as depraved as they are. if solitary confinement is basically equivalent to live burial, i think even the neanderthals would have found that morally contemptible.

i dont know how the vicious subhuman ones should be treated. certainly it would be minimal. but i dont think we sd become subhuman ourselves. maybe its too late.

Judge Philip A. Brimmer

Alfred A. Arraj United States Courthouse A741 / Courtroom A701  
(303) 335-2794

Call or write this Judge

We the People do not agree or condone this treatment of an American prisoner

Yep this terrible news came out yesterday @2:pm

P.O. Box 11374

Washington, DC 20008

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