

Solitary Watch

Criminal Justice Issues and Prisoners' Rights

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by [Jean Casella and James Ridgeway](#) | January 4, 2010

In a much-quoted [Truthdig](#) piece, Chris Hedges wrote last week about the case of Syed Fahad Hashmi, a Muslim American imprisoned at the federal Metropolitan Correctional Center (MCC) in Lower Manhattan as he awaits trial for conspiracy to provide support to terrorists (as Hedges puts it, he is accused of facilitating the delivery of socks to al-Qaida.) The piece includes a powerful description of the extreme lockdown measures used for suspects who are charged with and not yet convicted of terrorism-related offenses.

Hashmi, who if convicted could face up to 70 years in prison, has been held in solitary confinement for more than 2 years. Special administrative measures, known as SAMs, have been imposed by the attorney general to prevent or severely restrict communication with other prisoners, attorneys, family, the media and people outside the jail. He also is denied access to the news and other reading material. Hashmi is not allowed to attend group prayer. He is subject to 24-hour electronic monitoring and 23-hour lockdown. He must shower and go to the bathroom on camera. He can write one letter a week to a single member of his family, but he cannot use more than three pieces of paper. He has no access to fresh air and must take his one hour of daily recreation in a cage. His proclivity for violence is cited as the reason for these measures although he has never been charged or convicted with committing an act of violence.

The extreme sensory deprivation used on Hashmi is a form of psychological torture, far more effective in breaking and disorienting detainees. It is torture as science. In Germany, the Gestapo broke bones while its successor, the communist East German Stasi, broke souls. We are like the Stasi. We have refined the art of psychological disintegration and drag bewildered suspects into secretive courts when they no longer have the mental and psychological capability to defend themselves.

As several news outlets [have reported](#), other accused 9/11 plotter and Al Qaeda supporters who are brought to New York for trial are likely to face the same conditions, which are not all that different from what they experienced at Guantanamo.

The best piece on Hashmi, [published in The Nation](#) last spring, is by Jeanne Theoharis, who used the case to exemplify the broader changes our justice system has undergone in recent decades:

Guantanamo is not simply an aberration; its closure will not return America to the rule of law or to its former standing among nations. Guantanamo is a particular way of seeing the Constitution, of constructing the landscape as a murky terrain of lurking enemies where the courts become part of the bulwark against such dangers, where rights have limits and where international standards must be weighed against national security. It is an outgrowth of a war on terror with historical precedents that took root under Clinton (in legislation like the 1996 Antiterrorism and Effective Death Penalty Act), spread like kudzu under Bush and infiltrated the fabric of the justice system. It is a pre-emptive strategy where stopping terrorism has come to mean detaining and prosecuting people who may not have committed any actual act of terrorism but whose religious beliefs and political associations ostensibly reveal an intention to do so.

Theoharis writes about what happened when Hashmi's lawyers challenged the conditions of his confinement as he awaits trial.

The defense presented evidence on the devastating impact long-term solitary confinement and sensory deprivation have on prisoners' mental as well as physical health and on their ability to participate in their defense. Defense lawyer Sean Maher cited the work of various medical experts and scholars like University of California, Santa Cruz, psychology professor Craig Haney, who concludes that there is not a single published study of solitary or supermax-like confinement that failed to result in negative psychological effects.

The defense asked for a modest set of changes in the conditions of Hashmi's confinement that his elderly and disabled parents be allowed to visit him together, that he be allowed to exercise in MCC's recreational facility on the roof and with other prisoners, to participate in group prayer and to have a cellmate. The judge refused all these requests, siding with the US Attorneys' tautological argument that the original imposition of SAMs dictating higher security measures proved the paramount national security considerations of Hashmi's case, thus rendering the conditions of his confinement legitimate and necessary. It is not surprising, then, that in cases like Hashmi's where SAMs have been imposed since 9/11, almost none have been lifted. Judge Preska also claimed that Hashmi's restrictions are administrative rather than punitive and thus constitutional.

Hashmi has spent nearly a year and a half under the SAMs in a federal detention center in Manhattan under the sanction of the US District Court for the Southern District of New York. The conditions of his pretrial confinement are not substantially more humane than

those of many prisoners in Guantnamo, nor is his right to a fair trial in New York City unequivocally more protected than those of many foreign nationals facing US military commissions in other parts of the world. What, then, do we think will happen if the Guantnamo detainees are transferred and tried in federal courts?

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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Prisoners have rights and deserve to be treated fairly and humanely, just like everyone else. Many of them are not truly bad people (and some of them are), just people that have happened to have made a mistake in their life.

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