



# The Abuse of Solitary Confinement

**The growth and abuse of solitary confinement in U.S. prisons is one of the most pressing domestic human rights issues in America. Protest is growing - see this NY Times Op-ed. Nonetheless, a significant barrier to change is that much of the public has written the prison population off. We need help to bring this invisible issue to light.**



## **THE ISSUE:**

We'll let the facts speak for themselves.

- Individuals held in isolation in U.S. prisons, on last count: 81,622
- Approximate number held in long-term solitary in the UK: 45
- Ratio of size of solitary confinement cell to a parking space: half the size
- Maximum amount of time anyone has spent in solitary in the U.S.: 41 years

## **WHY IS YOUR STORY IMPORTANT?**

- Percentage of prison suicides that take place in isolation: 50
- Number of times more likely youth are to commit suicide in isolation: 19
- Percentage of people sentenced to solitary confinement by a judge and jury: 0
- Percentage placed in solitary by corrections officials: 100
- Percentage decrease in prison violence through the use of solitary: 0

## **NOMINATED BY:**

Jean Casella, Soros Justice Fellow, Solitary Watch,

## 1. The Issue

### Background

The use and abuse of solitary confinement in U.S. prisons is one of the most pressing domestic human rights issues in America today—and also one of the most invisible. The routine isolation of prisoners has grown dramatically in the past three decades, outpacing even the growth in the general prison population. On any given day, at least 80,000 men, women, and children are being held in solitary confinement in the nation's prisons and jails.

Far from being a last-resort measure reserved for the “worst of the worst,” solitary confinement has become a routine control strategy in many prisons, despite a lack of evidence that it contributes to safety or rehabilitation. Today, individuals can be placed in complete isolation not only for violent acts but for possessing contraband, ignoring orders, or using profanity. Thousands are held in indefinite solitary confinement because they have been “validated” as gang members, based on questionable information.

Others have ended up in solitary as victims of unequal treatment within the prison system—because they have untreated mental illnesses, are children in need of “protection,” are gay or transgender, are Muslim, have unpopular religious or political beliefs, or report rape or abuse by prison officials. In Virginia, a dozen Rastafarian men spent ten years in solitary confinement because they refuse to cut their hair on religious grounds.

For the people who endure it, life in solitary confinement means spending at least 23 hours a day in a cell that measures, on average, 6 x 9 feet, in prisons that have made a science out of isolation. Meals generally come through slots in their solid steel cell doors, as do any communications with prison staff, even mental health practitioners. Prisoners in solitary may be denied visits, telephone calls, television, and reading materials. And they can remain in isolation for months, years, or decades. In Louisiana, two men now in their sixties have been in solitary for 41 years.

Solitary confinement beyond 14 days has been widely denounced as torture by international bodies and human rights groups, including the UN Special Rapporteur on Torture. It is the harshest form of punishment that can be legally imposed by the prison system itself. It has been called a “sentence within a sentence” —yet it is meted out through procedures where corrections officials serve as prosecutor, judge, and jury, virtually free of any concern for due process or defendant's rights.



Solitary is also imposed without attention to any legitimate penological or societal purpose, since it is far more costly than other forms of incarceration and has never been shown to reduce prison violence. Isolation while in prison has been shown to increase recidivism, and adds to the challenge of re-entry and reintegration for the thousands of individuals released directly from solitary to the streets.

### **Who we are and where we fit in:**

Solitary Watch was founded in 2009 by James Ridgeway, a veteran investigative reporter, and Jean Casella, an expert in mission-driven nonprofit media, in response to the dearth of information on solitary confinement in the United States.

Solitary Watch serves as a source of original reporting and an information clearinghouse for both advocates and the public. We publish a daily blog; longer investigative articles in various publications; fact sheets, an FAQ, and a “Solitary 101” PowerPoint for use by educators and advocates; a quarterly print edition that is sent free of charge to people in prison; and “Voices from Solitary,” firsthand testimonies that give a human face to the facts and figures, and to a group of people who are even more marginalized than the prison population at large. We have about 8,000 followers on Facebook, Twitter, and email. In 2012 we received a Soros Justice Media Fellowship from the Open Society Foundations.

Recent challenges to the use and abuse of solitary confinement by groups devoted to human rights and civil liberties, as well as prisoners themselves, clearly show that this is an issue whose time has come. Solitary Watch knows all the players on the ground, in both national organizations and state-based campaigns. We are uniquely positioned to serve as a resource for this growing movement by providing both vital information and activist tools. Anything produced through StoryHack will be shared and used by activists around the country. Where things stand now:

The past four years have witnessed a groundswell of media coverage and activism around the long-neglected issue of solitary confinement. Since the founding of Solitary Watch in 2009, the mainstream media has increasingly covered the issue, culminating in front-page stories and editorials in both the New York Times and Washington Post, along with major stories in Rolling Stone, The Atlantic, The Nation, Mother Jones, Wired, and The New Yorker, among others.

In addition, several organizations have organized national campaigns around solitary--most prominently the ACLU and the National Religious Campaign Against Torture. At the same time there are strong state-based campaigns against solitary, especially in New York, California, and Illinois. A high-profile hunger strike carried out by hundreds of men in long-term solitary in

California received considerable media attention.

This activism has been carried out largely by progressive groups in concert with directly affected people (survivors of solitary and families of those in solitary.) However, the issue has also been shown to have appeal to both traditional conservatives, who object to the high cost of solitary, and libertarians, who balk at both the cost the abuse of government power entailed in locking people up without due process. Reason magazine, in particular, has lately given some coverage to the issue.

There have been some small, incremental victories in the campaign against solitary. In June 2012, Congress held its first hearings on solitary confinement, chaired by Senator Dick Durbin. Two states--Maine and Mississippi--have dramatically reduced their population of people in solitary. Other states have made small reductions, and one supermax prison--Tamms in Illinois--has been shut down after a long grassroots campaign and with the support of the governor.

### **How this issue has played out in the public:**

Polls show that a clear majority of Americans oppose the use of torture under any circumstances, even on foreign terrorism suspects. Yet conditions in U.S. prisons and jails, which at times transgress the boundaries of humane treatment, have produced comparatively little outcry. The widespread practice of solitary confinement, in particular, has until recently received relatively little media attention, and has yet to find a really firm place in the public discourse or on political platforms.

The ACLU National Prison Project conducted a survey on public responses to solitary confinement, and many other groups, including Solitary Watch, have gathered more anecdotal information about how people react to this issue.

These show that, broadly, people are shocked or surprised to find out how prevalent the use of solitary confinement is, how much it is used on vulnerable groups (children, the mentally ill, etc.), and how widely it is used to punish trivial, nonviolent misbehavior. Many people still believe that solitary is only used on the “worst of the worst,” to contain violent and dangerous prisoners. Many others are unaware of the deep psychological damage caused by solitary, or that it has been widely classified as torture. Few know that it has no effect on prison violence, or that it increases recidivism. And few see it as what we believe it is--an undeniable issue of basic human rights, just as pressing as (and much more widespread than) what is happening at Guantanamo.

There are many people who will always believe that criminal deserve whatever they get, up to and including torture and death. Many others, however, respond not only to more information,

but to efforts that personalize individuals in solitary, the suffering they endure, and the arbitrary and futile nature of the practice. We know this from responses to both written accounts of life in solitary, and testimony by survivors at public events.

### **Longer term goals (more policy oriented):**

The ultimate goal of the movement that we support is to end solitary confinement as we know it. There is some consensus among advocates that we need to ban solitary completely for children and the mentally ill, and severely restrict its use for all others. For the vast majority of the prison population, isolation could be limited to 14 days--the guideline established by the UN Special Rapporteur on Torture. For the tiny minority of extremely violent prisoners who need to be separated from others for longer terms, we can employ segregation without extreme isolation.

These changes can be achieved through lawmaking on the federal and state levels, or through sweeping revision of the regulations and policies governing prisons. Advocates are currently using a combination of litigation, legislative campaigns, and grassroots activism to move toward these policy goals.

### **Common Reasons for Placement in Solitary Confinement**

#### California

- Gang "validation" based on tattoos or reading materials
- Possession of five dollars or more without authorization
- Participation in a strike or work stoppage
- Self mutilation or attempted suicide for the purpose of manipulation

#### New York

- Failure to obey an order promptly
- Testing positive for marijuana
- "Reckless eyeballing"
- Refusing to return a food tray
- Possession of an excess quantity of postage stamps

As far as alternatives go, in the UK, for example about 1/2 of 1 % of prisoners are in segregation of any kind (as opposed to our 4-5%). These are prisoners who are habitually violent, and even they are not isolated the way they are here: They have education and therapy in their cells and are allowed some heavily supervised group activities.

As for the rest, there is simply no need for solitary because the prison system operates on something closer to a rehabilitative model, rather than a purely punitive one. Prisoners with mental illness (a major cause for misbehavior) are given treatment, as are prisoners with substance addictions. Minor misbehavior is reduced through the use of positive incentives.

## **2. Goals**

### **What attitude shifts need to happen among which target groups:**

Although there are 2.3 million people in prison and jail, what happens behind prison walls remains invisible to most Americans. Prisoners are “others” to whom many people find it difficult to relate. They are perhaps the most highly dehumanized members of our society.

Most broadly, people need to see prisoners as fully human, and fully entitled to be immune from torture and abuse by the state--no matter what they have done to land in prison. Prison itself is supposed to be the punishment for crimes, and additional abuses inside prison have no place in our justice system.

At the same time, they need to understand that long-term solitary confinement is a widely recognized form of torture that leaves behind scars that are just as deep and permanent as those left by physical torture. The use of solitary is a pressing human rights issue that is not viewed as such, even by progressives who have been deeply concerned about other human rights issues.

Solitary confinement should be as familiar to progressives as Guantanamo. In fact, daily conditions at Guantanamo are considerably better than those at any domestic supermax prison. There are 150 people at Guantanamo, and 80,000 in solitary confinement--including 25,000 in solitary for years or decades in supermax prisons.

Even among those of a less progressive stripe, solitary needs to be seen as an expensive, ineffective, counterproductive practice that has no place in our public institutions. Solitary increases the costs of incarceration by 2 to 3 times, increases recidivism, and serves absolutely no legitimate purpose, since it tends to increase, rather than reduce, prison violence.

Those who are unlikely to ever feel sympathy for prisoners who have committed serious offenses need to understand that most individuals are placed in solitary for nonviolent misbehavior, and that vulnerable groups such as children and the mentally ill are disproportionately likely to end up in solitary.

Everyone needs to understand that there are alternatives to solitary confinement as it is currently practiced in this country. Most European countries have all but eliminated the use of long term solitary, and it is rare for people in these countries to be isolated for more than a few days. Instead, positive incentives are used to reduce everyday misbehavior. Mental illness and substance abuse are treated rather than punished--at considerably less expense than solitary entails. Those very few prisoners who are habitually violent or predatory are separated from others for safety, but still not subjected to the extreme isolation or sensory deprivation of an American supermax prison. A few U.S. states have begun to reduce their populations in solitary. They have reduced expenses and seen reductions in both psychological problems and violence among their prisoners.

### 3. Specific ideas/hooks/concepts

Many people still need to be informed of the basic facts about solitary confinement--that it is both inhumane and ineffective. But more than this, they need to be personally moved and engaged to really care about the issue, and for this we believe they need to be able to relate to people who are suffering in solitary.

A couple of existing projects have been effective at humanizing people in solitary, while also educating people about the realities of solitary confinement.

"Photo Requests from Solitary," an art project currently being exhibited at Photoville in Brooklyn, invited people in supermax prisons--who live surrounded by four gray walls--to request a photograph of anything, real or imagined. The results are displayed along with their handwritten requests, and most viewers find them extremely moving. The exhibit ends with a "Harper's index" of facts and figures about solitary. People are asked to sign a postcard demanding an end to solitary; more than 1,000 people signed these over four days. <http://photovillennyc.org/photoville-2013/photo-requests-from-solitary/>

Herman's House is a documentary film about a man who has lived in solitary for 40 years, and collaborates with a young artist on the outside to design his dream house. It is also extremely moving, though it does a less effective job of connecting Herman's plight to that of the 80,000 others in solitary. <http://hermanshousethefilm.com/>

"Voices from Solitary" is a feature on Solitary Watch that prints the original writings of people currently in solitary confinement. A few pieces have struck a chord with readers and gone viral--particularly one called "A Sentence Worse Than Death," which has gotten more than 400,000 hits and been translated into several languages. <http://solitarywatch.com/2013/03/11/voices-from-solitary-a-sentence-worse-than-death/>



## Some added hooks/ideas from the Re3Team

Here are a few different hooks for trying to tap into deeper emotional reasons why we should be against this idea.

- There seems to be something related to fairness – that it’s a really bad punishment meted out arbitrarily by guards, not judges.
- There could be something that makes solitary confinement feel like “Torture”. Right now that word might be used, but it won’t resonate with a member of the general public.
- There is obviously the effectiveness argument – that it doesn’t seem to work. But isn’t punishment is more about how “we” feel than it working, so that might not be great.
- What about comparing the US system with other countries’ – showing how we are more like countries we don’t like than countries we do. Or showing how other countries have reduced solitary and it works.
- The public might be at a “who cares what happens to someone in prison?” How do we counter that?
- What would a prison guard say? What are conditions in jails? Why do they want to use Solitary? We’d ideally try to empathize with “the other side”, at least to start with. Is there a bigger issue about over-crowding / under-resourcing
- There is the bigger issue of the purpose of prison. To punish, to protect society, to rehabilitate? These get into deep psychological reactions in people. But probably the answer to that affects how we accept or don’t solitary.

## 4. Facts you can play with

- Individuals held in isolation in U.S. prisons, on last count: 81,622
- Estimated number held in long-term solitary in supermax prisons: 25,000
- Approximate number held in long-term solitary in the UK: 45
- States that practice solitary confinement: 50
- States with supermax prisons designed to keep people in isolation: 44
- Estimated percentage of people held in isolation in U.S. prisons: 3-5
- Percentage of prison suicides that take place in isolation: 50
- Number of times more likely youth are to commit suicide in isolation: 19
- Average size of a solitary confinement cell, in feet: 7 x 10
- Average size of a parking space, in feet: 8 x 16
- Hours a day people in isolation spend inside their cells: 22 to 24
- Hours they are allowed to exercise in a fenced or walled “dog run”: 1-2
- Percentage of people sentenced to solitary confinement by a judge and jury: 0
- Percentage placed in solitary by corrections officials: 100

- Average cost of keeping a person in prison for a year, in dollars: 25,000
- Average cost of keeping a person in solitary for a year, in dollars: 75,000
- Percentage decrease in prison violence through the use of solitary: 0
- Year UN torture expert Juan Méndez called for a ban on long-term solitary: 2011
- Maximum amount of time a person should be in solitary, according to Mendez, in days: 15
- Maximum amount of time anyone has spent in solitary in the U.S., in years: 41

## 5. Guidelines

We do not want to throw certain people under the bus in the process of trying to help others. The idea of children or mentally ill people in solitary is particularly compelling, and some advocacy groups have chosen to concentrate solely on them. But torture should not be an acceptable practice in our criminal justice system, even when it is used against really bad guys.

Any effective project will need to be inexpensive and/or fairly easy to fund, and it must be something that can be shared and/or replicated by the many organizations and grassroots campaigns around the country that are working on this issue.