

## Solitary Confinement

Solitary confinement refers to incarcerating people alone in small cells, often only 6x9 feet, for 22-24 hours per day. In the US, solitary confinement exists in every possible site of detention: prisons, jails, and immigration detention centers; federal, state, and local sites; public and privately run institutions. Those living in solitary confinement have extremely limited access to human contact. Time out of the cell is limited to showers and one hour per day of “recreation,” in a small fenced-in area. People returning from solitary tell stories of corrections officers offering recreation only in the middle of the night; if you were asleep, you missed your chance for the day. People in solitary have limited access to reading material, restricted access to medical care and mental health care, no access to classes or drug treatment programs, and can meet visitors only through a thick pane of glass.

### Genesis Rabbah 24:7

**No one should say: “Because I have been dishonored, let my fellow person be dishonored.” Rabbi Tanhuma taught, “If you do thus, know that the person you have dishonored was created in the image of God.”**

The debilitating long-term effects of solitary confinement on both physical and mental health are well documented.<sup>357</sup> These include depression, withdrawal (to the point, in extreme cases, of catatonia), mood swings, anger management problems, anxiety, violence, self-mutilation, and suicidality. These can manifest even after “short, defined periods in extreme isolation.”<sup>358</sup> In an article for the *New Yorker*, Physician Atul Gawande compared the permanent psychological impairment of people in long-term solitary to that incurred by traumatic brain injury.<sup>359</sup> In August, 2011, UN Special Rapporteur on Torture Juan Mendez issued a scathing report defining solitary as a form of torture.<sup>360</sup>

His report set an international standard for what constitutes prolonged solitary confinement, defining it as isolation that lasts more than 15 days.

In the popular imagination, solitary confinement is reserved for the worst, most violent offenders, but the reality is otherwise. First, solitary is usually not part of a sentence handed down by judge or jury, but is rather imposed by prison officials. “Punitive segregation,” for violation of prison rules, can last from days to years; “administrative segregation” can last the full duration of an incarcerated person’s sentence, stretching into decades.<sup>361</sup> Prisons may use solitary for “involuntary protective custody,” keeping minors, LGBT people, or the mentally ill there “for their own good.” Sometimes people languish in solitary because there is no other available bed in the facility.<sup>362</sup>

The category of “punitive segregation,” while seeming reasonable at first glance, breaks down upon close examination into a Kafkaesque series of regulations. Five Mualimm-ak, who spent years in solitary in New York State before being cleared of all charges, describes one of the times he was sent to solitary. “I had been transferred from one prison to another, and they hadn’t fed me. At my next meal, I was so hungry I ate the whole apple, seeds and all. Well, apple seeds have a tiny bit of cyanide in them, so they gave me a ‘ticket’ for attempted suicide. The next day, they brought me an apple with my meal and I didn’t touch it—I was afraid of what might go wrong. So they gave me another

<sup>357</sup> See e.g., Stuart Grassian & Nancy Friedman, *Effects of Sensory Deprivation in Psychiatric Seclusion and Solitary Confinement*, 8 INT’L J.L. & PSYCHIATRY 49 (1986); Craig Haney & Mona Lynch, *Regulating Prisons of the Future: A Psychological Analysis of Supermax and Solitary Confinement*, 23 NEW YORK UNIVERSITY REVIEW OF LAW AND SOCIAL CHANGE 477-570 (1997); Craig Haney, *Mental Health Issues in Long-Term Solitary and “Supermax” Confinement*, 49 CRIME & DELINQ. 124 (2003).

<sup>358</sup> *Boxed In*, NYCLU, p. 27. [http://www.nyclu.org/files/publications/nyclu\\_boxedin\\_FINAL.pdf](http://www.nyclu.org/files/publications/nyclu_boxedin_FINAL.pdf)

<sup>359</sup> <http://www.newyorker.com/magazine/2009/03/30/hellhole>

<sup>360</sup> The Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman, and degrading treatment or punishment, Interim Report, 15, delivered to the General Assembly, U.N. Doc. A/66/268 (Aug. 5, 2011).

<sup>361</sup> <http://solitarywatch.com/facts/faq/>

<sup>362</sup> <http://solitarywatch.com/2014/09/22/reports-condemn-healthcare-and-solitary-confinement-in-arizona-state-prisons/>

‘ticket,’ for refusing to eat. You can’t win.”<sup>363</sup> The California prison system used to employ a coercive process called debriefing to encourage people to identify gang members in prison. It almost goes without saying that snitching on other gang members can put a person’s life in danger, but “refusal to engage in the debriefing process supposedly proved [the incarcerated person] was a gang member, and worthy of administrative segregation.”<sup>364</sup> The 2015 settlement in *Ashker vs. Governor of California* ended this practice, but similar logic continues to prevail in other states.

The introduction of reform efforts in a number of states suggests that the United States may be reaching a tipping point on reversing the solitary confinement trend—see the sidebars for some examples.<sup>365</sup>

In the fall of 2014, the United States was up for a periodic review before the UN Committee Against Torture. T’ruah was the only Jewish organization to submit a “shadow report”<sup>366</sup> to the UN, in addition to the US government’s official report on its progress. T’ruah’s report focused on solitary confinement as a violation of human rights. We wrote:

*As rabbis and members of the Jewish community, we feel compelled to speak out against this form of torture. The very first two chapters of our Torah teach us that every human being is created in the image of God, and that no human being should be*

*alone... As rabbis, many of us have visited congregants in prison, or served as prison chaplains. These pastoral experiences have taught us the degradation prisoners feel, the loneliness of being in prison, and the desperation of those unable to maintain normal human relationships while living in isolation... The rabbis of the Talmud understand that solitary confinement for any significant period of time will be lethal.<sup>367</sup> There is no reason to believe that solitary confinement was ever used in the Talmudic period; rather, it seems to be a theoretical punishment for the worst criminals.*

## Psalm 118:5

**“From the narrow place, I called to God.”**



Photo by T’ruah

The shadow report ended by making the following recommendations:

- Limit the use of solitary to a maximum of 15 days, communicate clearly to the incarcerated person the length of his/her stay in solitary, and guarantee a fair and meaningful process prior to being sent into isolation.
- Ban the use of solitary for certain populations (minors, mentally ill people, pregnant women, pretrial detainees, and immigrants held in civil proceedings).
- Guarantee access by people in solitary to the full range of rehabilitative services offered to people in the facility’s general population, including mental health care, counseling, and religious services.
- Develop standards to ensure that people are not placed in solitary for discriminatory reasons, including for challenging the conditions of incarceration.

<sup>363</sup> Personal communication.

<sup>364</sup> <http://solitarywatch.com/2011/07/18/who-are-the-hunger-strikers-how-prisoners-land-in-pelican-bays-shus/>

<sup>365</sup> <https://www.themarshallproject.org/documents/1687520-fathi>

<sup>366</sup> <http://www.ushrnetwork.org/sites/ushrnetwork.org/files/31-prisons-rabbinic.pdf>

<sup>367</sup> Talmud, Sanhedrin 81b.

## Facts and Figures

- The United States currently detains between 80,000-100,000 people in solitary confinement on any given day.<sup>368</sup> This number does not include people held in jails, juvenile detention, or immigration detention facilities, making the total number higher by an unknown amount.
- From 2007 to 2011, New York issued more than 68,100 sentences to extreme isolation for violations of prison rules. The average sentence was five months, although many people are held in extreme isolation for years.<sup>369</sup>
- “According to the California Code of Regulations, Title 15, Section 3315, there are 23 ‘serious rule violations’ that can send an inmate to an SHU for a determinate time. These include ‘acquisition or exchange of personal or state property amounting to more than \$50.... tattooing or possession of tattoo paraphernalia.... possession of \$5 or more without authorization.... refusal to work or participate in a program as assigned.... acts of disobedience or disrespect’ or the perceived ‘threat to commit’ a disruption or breach of security, including the ‘threat’ to ‘possess a controlled substance.’”<sup>370</sup>
- Over 95% of all people currently incarcerated, including those in solitary confinement, will eventually be released.<sup>371</sup> Some are released directly from solitary to the street.<sup>372</sup> With none of the transitional preparation that people in general population receive, they have even less chance of succeeding after their release.



<sup>368</sup> Angela Browne, Alissa Cambier, Suzanne Agha, *Prisons Within Prisons: The Use of Segregation in the United States*, 24 *FED’L SENTENCING REPORTER* 46 (2011)

<sup>369</sup> NYCLU, *Boxed In*, p. 1.

<sup>370</sup> Activist Jeff Kaye, quoted in <http://solitarywatch.com/2011/07/18/who-are-the-hunger-strikers-how-prisoners-land-in-pelican-bays-shus/>

<sup>371</sup> <https://fas.org/sgp/crs/misc/RL34287.pdf>

<sup>372</sup> *Boxed In*, p. 5.

## Mississippi

Mississippi's Unit 32 was a "supermax" prison containing 1,000 solitary confinement cells. After the ACLU brought a lawsuit challenging conditions there, the state closed the entire facility in 2010. State Department of Corrections Commissioner Christopher Epps commented,

*I often say, "You have to decide who you are afraid of and who you are mad at" when making decisions on the use of administrative segregation in prison... Corrections professionals and the criminal justice system must be careful not to use administrative segregation in prison to manage those who we are mad at because this is an expensive option that takes away resources from important government areas such as education, human services, healthcare, etc., which are the services most needed to make a better society.*

Mississippi has other solitary confinement facilities, and conditions there remain problematic, but closing an entire prison dramatically reduced the population in solitary.<sup>373</sup>

## Maine

Maine once had some of the harshest policies for people held in solitary, but reform efforts initiated in 2010 by state Corrections Commissioner Joseph Ponte have led to immense changes. Prison staff now employ solitary as a measure of last resort, rather than a go-to solution. Instead, prison staff have been trained to deescalate confrontations that, previously, would have led straight to solitary. Those few who do end up in solitary have greater access to services and group activities, which are aimed at helping them return to general population as quickly as possible. In less than three years, the solitary population dropped by more than half. In March of 2014, Ponte was appointed Corrections Commissioner in New York City, where he faces the challenge of bringing similar reforms to a much larger, more urban jail system.<sup>374</sup>

<sup>373</sup> <https://www.themarshallproject.org/documents/1687520-fathi>, p. 170-171.

<sup>374</sup> <https://www.themarshallproject.org/documents/1687520-fathi>, p. 171-172.