

SOLITARY CONFINEMENT - TORTURE

I Thought Solitary Confinement in Iran Was Bad -- Then I Went Inside America's Prisons

We throw thousands of people in prison for the books they read, the company they keep, the beliefs they hold. Here's why.

of the three American hikers imprisoned in Iran after being apprehended on the Iraqi border in 2009. He spent 26 months in Tehran's Evin Prison, 4 of them in solitary. Bauer is winner of the 2013 Hillman Prize for Magazine Journalism for the article below, his special investigation into solitary confinement. The winning feature was published in Mother Jones and supported by the Investigative Fund of the Nation Institute.

IT'S BEEN SEVEN MONTHS since I've been inside a prison cell. Now I'm back, sort of. The experience is eerily like my dreams, where I am a prisoner in another man's cell. Like the cell I go back to in my sleep, this one is built for solitary confinement. I'm taking intermittent, heaving breaths, like I can't get enough air. This still happens to me from time to time, especially in tight spaces. At a little over 11 by 7 feet, this cell is smaller than any I've ever inhabited. You can't pace in it.

Like in my dreams, I case the space for the means of staying sane. Is there a TV to watch, a book to read, a round object to toss? The pathetic artifacts of this inmate's life remind me of objects that were once everything to me: a stack of books, a handmade chessboard, a few scattered pieces of artwork taped to the concrete, a family photo, large manila envelopes full of letters. I know that these things are his world.

"So when you're in Iran and in solitary confinement," asks my guide, Lieutenant Chris Acosta, "was it different?" His tone makes clear that he believes an Iranian prison to be a bad place.

He's right about that. After being apprehended on the Iran-Iraq border, Sarah Shourd, Josh Fattal, and I were held in Evin Prison's isolation ward for political prisoners. Sarah remained there for 13 months, Josh and I for 26 months. We were held incommunicado. We never knew when, or if, we would get out. We didn't go to trial for two years. When we did we had no way to speak to a lawyer and no means of contesting the charges against us, which included espionage. The alleged evidence the court held was "confidential."

What I want to tell Acosta is that no part of my experience—not the uncertainty of when I would be free again, not the tortured screams of other prisoners—was worse than the four months I spent in solitary confinement. What would he say if I told him I needed human contact so badly that I woke every morning hoping to be interrogated? Would he believe that I once yearned to be sat down in a padded, soundproof room, blindfolded, and questioned, just so I could talk to somebody?

I want to answer his question—of course my experience was different from those of the men at California's Pelican Bay State Prison—but I'm not sure how to do it. How do you compare, when the difference between one person's stability and another's insanity is found in tiny details? Do I point out that I had a mattress, and they have thin pieces of foam; that the concrete open-air cell I exercised in was twice the size of the "dog run" at Pelican Bay, which is about 16 by 25 feet; that I got 15 minutes of phone calls in 26 months, and they get none; that I couldn't write letters, but they can; that we could only talk to nearby prisoners in secret, but they can shout to each other without being punished; that unlike where I was imprisoned, whoever lives here has to shit at the front of his cell, in view of the guards?

"There was a window," I say. I don't quite know how to tell him what I mean by that answer. "Just having that light come in, seeing the light move across the cell, seeing what time of day it was—" Without those windows, I wouldn't have had the sound of ravens, the rare breezes, or the drops of rain that I let wash over my face some nights. My world would have been utterly restricted to my concrete box, to watching the miniature ocean waves I made by sloshing water back and forth in a bottle; to marveling at ants; to calculating the mean, median, and mode of the tick marks on the wall; to talking to myself without realizing it. For hours, days, I fixated on the patch of sunlight cast against my wall through those barred and grated windows. When, after five weeks, my knees buckled and I fell to the ground utterly broken, sobbing and rocking to the beat of my heart, it was the patch of sunlight that brought me back. Its slow creeping against the wall reminded me that the world did in fact turn and that time was something other than the stagnant pool my life was draining into.

Here, there are no windows.

Acosta, Pelican Bay's public information officer, is giving me a tour of the Security Housing Unit. Inmates deemed a threat to the security of any of California's 33 prisons are shipped to one of the state's five SHUs (pronounced "shoes"), which hold nearly 4,000 people in long-term

isolation. In the Pelican Bay SHU, 94 percent of prisoners are celled alone; overcrowding has forced the prison to double up the rest. Statewide, about 32 percent of SHU cells—hardly large enough for one person—are crammed with two inmates.

The cell I am standing in is one of eight in a "pod," a large concrete room with cells along one side and only one exit, which leads to the guards' control room. A guard watches over us, rifle in hand, through a set of bars in the wall. He can easily shoot into any one of six pods around him. He communicates with prisoners through speakers and opens their steel grated cell doors via remote. That is how they are let out to the dog run, where they exercise for an hour a day, alone. They don't leave the cell to eat. If they ever leave the pod, they have to strip naked, pass their hands through a food slot to be handcuffed, then wait for the door to open and be bellycuffed.

I've been corresponding with at least 20 inmates in SHUs around California as part of an investigation into why and how people end up here. While at Pelican Bay, I'm not allowed to see or speak to any of them. Since 1996, California law has given prison authorities full control of which inmates journalists can interview. The only one I'm permitted to speak to is the same person the New York Times was allowed to interview months before. He is getting out of the SHU because he informed on other prisoners. In fact, this SHU pod—the only one I am allowed to see—is populated entirely by prison informants. I ask repeatedly why I'm not allowed to visit another pod or speak to other SHU inmates. Eventually, Acosta snaps: "You're just not."

IF I COULD, I WOULD MEET WITH Dietrich Pennington, a 59-year-old Army veteran from Oakland who has served 20 years of a life sentence for robbery, kidnapping, and attempted murder. Pennington has lived alone in one of these cells for more than four years. During that time, he hasn't spoken to his family. He has never met any of his seven grandchildren. In the SHU, he's seen "some of the strongest men I know fall apart."

But the fact that Pennington is in solitary is not what is remarkable about his story. More than 80,000 people were in solitary confinement in the United States in 2005, the last time the federal government released such data. In California alone, at least 11,730 people are housed in some form of isolation. What is unique about Pennington—if being one of thousands can be considered unique—is that he doesn't know when, or if, he will get out of the SHU. Like at least 3,808 others in California, he is serving an indeterminate sentence.

Compared to most SHU inmates, Pennington is a newbie. Prisoners spend an average of 7.5 years in the Pelican Bay SHU, the only one for which the California Department of Corrections and Rehabilitation (CDCR) has statistics. More than half of the 1,126 prisoners here have been in isolation for at least five years. Eighty-nine have been there for at least 20 years. One has been in solitary for 42 years.

Like many of the others, Pennington has never been charged with any serious prison offenses, like fighting or selling drugs. In 20 years of incarceration, his only strikes have been two rule violations: delaying roll call and refusing to be housed in a dorm-style cell with at least seven other prisoners. While in prison, he became a certified welder, receiving a special commendation for his work on building a rollover crash simulator for the California Highway Patrol. He used to regularly attend religious services and self-help groups, including parenting classes, Alcoholics Anonymous, and Narcotics Anonymous, all of which are forbidden in the SHU.

Pennington's lawyer, Charles Carbone, says his "impeccable prison record" should have him on track for parole. But there is no chance of that—four years ago Pennington was "validated" by prison staff as an associate of a prison gang (one formed on the inside, as opposed to a street gang). That's the reason he and thousands of others are in the SHU with no exit date.

Pennington is not accused of giving or carrying out orders on behalf of any gang. In fact, there is no evidence that he's ever communicated with a member of a gang in his entire life. "I've never been, never want to be a part of no gang," he wrote me. (He is currently trying to challenge his validation in court.)

To validate an inmate as a gang member, the state requires at least three pieces of evidence, which must be "indicative of actual membership" or association with a prison gang in the last six years. At least one item must show a "direct link," like a note or other communication, to a validated gang member or associate. Once the prison's gang investigator has gathered this evidence, it is reviewed in an administrative hearing and then sent to CDCR headquarters in Sacramento.

In Pennington's file, the "direct link" is his possession of an article published in the San Francisco Bay View, an African American newspaper with a circulation of around 15,000. The paper is approved for distribution in California prisons, and Pennington's right to receive it is

protected under state law. In the op-ed style article he had in his cell, titled "Guards confiscate 'revolutionary' materials at Pelican Bay," a validated member of the Black Guerilla Family prison gang complains about the seizure of literature and pictures from his cell and accuses the prison of pursuing "racist policy." In Pennington's validation documents, the gang investigator contends that, by naming the confiscated materials, the author "communicates to associates of the BGF...as to which material needs to be studied." No one alleges that Pennington ever attempted to contact the author. It is enough that he possessed the article.

The second piece of evidence was a cup Pennington had in his cell bearing a picture of a dragon, an image CDCR considers an "identifying symbol" of the Black Guerilla Family. The third was a notebook he kept, which the gang investigator alleges "shows his beliefs in the ideals of the BGF." Its pages are filled with references to black history—Nat Turner, the Scottsboro 9, the number of blacks executed between 1930 and 1969, and quotes from figures like W.E.B. Du Bois and Malcolm X. There are also passages in which Pennington ruminates at length on what he calls "the oppression and violence inflicted upon us here in maximum security," referencing a Time exposé.

Pennington never mentions gangs or unlawful activity in his writing. But in his validation documents, the gang investigator points out that the notebook contains quotes by Fleeta Drumgo and George Jackson, two former Black Panthers who are revered by members of the BGF and politicized African American prisoners generally. The single Jackson quote Pennington wrote down reads, "The text books on criminology like to advance the idea that the prisoners are mentally defective. There is only the merest suggestion that the system itself is at fault."

California officials frequently cite possession of black literature, left-wing materials, and writing about prisoner rights as evidence of gang affiliation. In the dozens of cases I reviewed, gang investigators have used the term "[BGF] training material" to refer to publications by California Prison Focus, a group that advocates the abolition of the SHUs; Jackson's once best-selling Soledad Brother; a pamphlet said to reference "Revolutionary Black Nationalism, The Black Internationalist Party, Marx, and Lenin"; and a pamphlet titled "The Black People's Prison Survival Guide." This last one advises inmates to read books, keep a dictionary handy, practice yoga, avoid watching too much television, and stay away from "leaders of gangs."

The list goes on. Other materials considered evidence of gang involvement have included writings by Mumia Abu-Jamal; The Black Panther Party: Reconsidered, a collection of academic

essays by University of Cincinnati professor Charles Jones; pictures of Assata Shakur, Malcolm X, George Jackson, and Nat Turner; and virtually anything using the term "New Afrikan." At least one validation besides Pennington's referenced handwritten pages of "Afro centric ideology."

As warden of San Quentin Prison in the 1980s, Daniel Vasquez oversaw what was then the country's largest SHU. He's now a corrections consultant and has testified on behalf of inmates seeking to reverse their validations. As we sat in his suburban Bay Area home, he told me it is "very common" for African American prisoners who display leadership qualities or radical political views to end up in the SHU. Similarly, he recalls, "we were told that when an African American inmate identified as being Muslim, we were supposed to watch them carefully and get their names."

Vasquez testified in federal court in the case of a former inmate, Ernesto Lira, who was gangvalidated in part based on a drawing that included an image of the huelga bird, the symbol of the United Farm Workers. While the image has been co-opted by the Nuestra Familia prison gang, Vasquez testified that it is "a popular symbol widely used in Hispanic culture and by California farmworkers." Lira's validation was one of a handful to ever be reversed in federal court—though not until after he was released on parole, having spent eight years in the SHU. And though the court ruled that the huelga bird is of "obscure and ambiguous meaning," it continues to be used as validation evidence.

Gang evidence comes in countless forms. Possession of Machiavelli's *The Prince*, Robert Greene's *The 48 Laws of Power*, or Sun Tzu's *The Art of War* has been invoked as evidence. One inmate's validation includes a Christmas card with stars drawn on it—alleged gang symbols—among Hershey's Kisses and a candy cane. Another included a poetry booklet the inmate had coauthored with a validated BGF member. One poem reflected on what it was like to feel human touch after 14 years and another warned against spreading HIV. The only reference to violence was the line, "this senseless dying gotta end."

"Direct links" that appear in inmates' case files are often things they have no control over, like having their names found in the cells of validated gang members or associates or having a validated gang affiliate send them a letter, even if they never received it or knew of its existence. Appearing in a group picture with one validated gang associate counts as a direct link, even if that person wasn't validated at the time.

In the course of my investigation, I obtained CDCR's confidential validation manual. It teaches investigators that use of the words tío or hermano, Spanish for uncle and brother, can indicate gang activity, as can señor. Validation files on Latino inmates have included drawings of the ancient Aztec jaguar knight and Aztec war shields, and anything in the indigenous Nahuatl language, spoken by an estimated 1.4 million people in central Mexico.

Some SHU inmates, aside from the "bona fide gang members," are those "the guards don't like," says Carbone, Pennington's lawyer. "They get annihilated with gang validations in order to get them off the main lines...The rules are so flimsy that if the department wants somebody validated, he will get validated."

California is just one of many states where inmates can be thrown into solitary confinement on sketchy grounds—though just how many is hard to know. A survey conducted by Mother Jones found that most states had some kind of gang validation process, but implementation varied widely, and a number of states would not disclose their policies at all. Seventeen states said they don't house inmates in "single-celled segregation" indeterminately. (No state officially uses the term "solitary.")

It's unclear how many states keep inmates in solitary as long as California does. Texas has 4,748 validated affiliates of "security threat groups" in indefinite solitary—more than California's prison gang affiliates—and some have been there for more than 20 years. Louisiana has held two Black Panthers in solitary for 40 years. Minnesota is near the opposite end of the spectrum, holding inmates in segregation for an average term of 29 days. At least 12 states review an inmate's segregation status every 30 days or less; Massachusetts does it weekly.

Keeping all these inmates segregated is an expensive proposition for taxpayers. Pelican Bay spends at least 20 percent more to keep an inmate in isolation—an extra \$12,317 per inmate per year, or \$14 million annually.

AT PELICAN BAY, DECISIONS about who gets put in the hole indefinitely come down to one man: Institutional Gang Investigator David Barneburg. A stocky man with a shaved head and a seven-point star on the breast of his khaki uniform, Barneburg comes from a lineage of loggers who found themselves out of work when the timber industry busted. When Pelican Bay opened its doors amidst the majestic redwoods in 1989, his father signed up.

Pelican Bay was a new kind of prison—one of the nation's first full-fledged supermaxes, built with the explicit purpose of housing inmates in long-term isolation. After Pelican Bay, supermaxes popped up across the country, in part to deal with rising violence in increasingly crowded prisons. Today, there are roughly 60 nationwide.

Barneburg started here in 1997, and after 15 years on the job, he comes off as a man under duress. He makes a point of assuring me that he and his gang investigations team of 10 are not "knuckle-dragging thugs." He tells me he has to regularly take the stand in court to defend gang validations. To date, prisoners have sued him at least 30 times, though I could find no record of any having succeeded. "I don't want to go as far as saying gang investigators are persecuted, but..."

He is giving me a PowerPoint presentation detailing the structures and operations of the seven prison gangs targeted by the department of corrections. The Nazi Low Riders. The Aryan Brotherhood. The Texas Syndicate. The Black Guerilla Family. The Mexican Mafia. The Nuestra Familia. The Northern Structure. "It's about power," he says. "It's about control. It's about extortion. It's about money. It's about dope. It's about murder." Membership in a gang is not illegal in the United States—it's a right protected by the First Amendment—but Barneburg says segregating gang members is the only way to keep prisons from being overrun by racial strife, stabbings, and killings.

When I ask him how well that's worked, he stutters and says diffidently, "I think there's been less violence."

He's wrong. The rate of violent incidents in California prisons is nearly 20 percent higher than when Pelican Bay opened in 1989. As I walk with Lieutenant Acosta alongside the general population yard—a grassy, if bleak, fenced-in area where, unlike in the SHU, prisoners are allowed to interact—he unwittingly contradicts Barneburg's claim too, saying that violence in Pelican Bay has seen dramatic spikes over the years. In the 1990s, he says, "you didn't see the big fights, all the riots. It was like one, two guys fighting, maybe three guys." But since then, prison gang violence has escalated dramatically, with riots involving upwards of 200 people.

Prison violence fluctuates for myriad reasons, among them overcrowding, gang politics, and prison conditions. It's impossible to say for certain what role SHUs play; what is clear is that in states that have reduced solitary confinement—Colorado, Maine, and Mississippi—violence has

not increased. (Illinois plans to close its notorious Tamms supermax soon.) Since Mississippi State Penitentiary at Parchman released 75 percent of inmates from solitary in the mid-2000s, violence has dropped 50 percent.

CDCR officials claim California is different because the gang problem is worse here, though they don't have data to confirm this. Barneburg says without SHUs, there would be no way to prevent gang leaders from giving orders to the general population. What he doesn't say is that very few SHU inmates are considered gang leaders even by CDCR's standards. Only 22 percent of those serving indeterminate SHU terms are validated even as members of prison gangs. The rest, like Dietrich Pennington, are classified as associates, people who are accused of having had some connection with members—or other associates—of prison gangs.

Former San Quentin Warden Daniel Vasquez says association with prison gangs—for protection, among other things—is "pretty inescapable" in the hostile and racially segregated atmosphere inside. "You're going to come across them in some form or fashion," he says. "You are going to start experiencing the pressures of these gangs." Barneburg himself acknowledges it is hard for a Mexican from Southern California, for example, to keep away from the Mexican Mafia, since the gang sees itself as the authority over any Mexican prisoner from the lower part of the state. A full 2,201 people currently serving indeterminate SHU terms are validated as associates of that gang; there are only 98 validated members.

Being associated with a prison gang—even if you haven't done anything illegal—carries a much heavier penalty than, say, stabbing someone. Association could land you in solitary for decades. An inmate who murders a guard—the severest crime in prison—can get no more than five years in the SHU.

THE DECISION TO PUT A MAN in solitary indefinitely is made at internal hearings that last, prisoners say, about 20 minutes. They are closed-door affairs. CDCR told me I couldn't witness one. No one can.

When Josh Fattal and I finally came before the Revolutionary Court in Iran, we had a lawyer present, but weren't allowed to speak to him. In California, an inmate facing the worst punishment our penal system has to offer short of death can't even have a lawyer in the room. He can't gather or present evidence in his defense. He can't call witnesses. Much of the evidence—anything provided by informants—is confidential and thus impossible to refute.

That's what Judge Salavati told us after our prosecutor spun his yarn about our role in a vast American-Israeli conspiracy: There were heaps of evidence, but neither we nor our lawyer were allowed to see it.

None of the gang validation proceedings, from the initial investigation to the final sentencing, have any judicial oversight. They are all internal. Other than the inmate, there is only one person present—the gang investigator—and he serves as judge, jury, and prosecutor. After the hearing, the investigator will send his validation package to Sacramento for approval. The chances of it being refused are vanishingly small: The department's own data shows that of the 6,300 validations submitted since 2009, only 25 have been rejected—0.4 percent. "It's pretty much a rubber stamping," Vasquez says.

"That is a system that has no place in a constitutional democracy," says David Fathi, director of the American Civil Liberties Union's National Prison Project. He says California's policy is "a form of guilt by association that is completely foreign to our legal system. Prison administrators have absolute power, and that is a recipe for abuse and violation of rights."

CDCR officials are quick to point out that inmates can challenge their gang status: They can appeal to the gang investigator, the warden, and, as a last resort, the departmental appeals office in Sacramento. But former Pelican Bay Warden Joseph McGrath testified in court that "officers do not reevaluate the evidence" and that, if an appeal came to him, he would "assume the truth of whatever was written" in the validation documents. When I asked CDCR for an example of an appeal resulting in a reversal of a gang validation, they couldn't produce a single case. Gang investigator Barneburg, who has worked at Pelican Bay for 15 years, has never seen a validation appeal succeed either—evidence, he says, of his team's thoroughness. "We put out really quality work," he says.

If an inmate exhausts his administrative appeals, he has the legal right to take his case to court. Most can't afford a lawyer, so they end up representing themselves. Attorney Charles Carbone, who has challenged more than 200 gang validations (of which he says about 25 have been successful), says inmates who represent themselves succeed "less than 1 percent" of the time. The biggest obstacle is the "some evidence" standard, which essentially means that CDCR only has to provide a bare minimum of proof. The courts do not weigh the evidence or decide whether or not a prisoner is in a gang. The judge's job is only to "see whether any evidence

exists," Carbone says. "And if it does, he won't evaluate it. He'll leave that to the prison authorities."

HOW DOES SOMEONE GET OUT of the SHU, then? Officially, there are two ways. One is to be declared an "inactive" gang member or associate, which doesn't happen very often. Just a few dozen inmates are released to the general population every year via that process—less than 1 percent of those serving indeterminate SHU terms. The earliest chance of being classified as "inactive" is six years from the latest evidenced gang activity. Then, if a gang investigator provides a single piece of new evidence—say a book found in the cell or a tidbit from a confidential informant—the inmate has to wait six more years.

The other way out is to debrief—to divulge everything an inmate knows about a gang, including names of members and associates. This he can do at any time. An average of 108 do it every year, even though among prisoners snitching can carry the death penalty.

And what if a prisoner in the SHU doesn't know anything? As former Pelican Bay Warden McGrath testified in court three years ago, anyone mistakenly validated "cannot debrief," because they have nothing to give. Catch-22.

In Pelican Bay's Transitional Programming Unit—the place where inmates go once they've been released from the SHU—I sit at a metal table with Paul Bocanegra, a burly, tattooed former prison gang member. He spent 12 years in isolation before he debriefed. Now, he is housed among other debriefers and will probably never go back to the general population. Assault or murder, he says, is "usually what happens once you turn your back on your buddies—people you used to run with. That's always in the back of your head. What's gonna happen if one day I get out, you know?"

CDCR claims that indeterminate SHU sentences are not meant to be punitive but are simply intended to isolate dangerous prisoners. That's also the argument the department uses to refute challenges like the class action lawsuit under way by the Center for Constitutional Rights on behalf of Pelican Bay prisoners who have spent between 10 and 28 years in solitary. The suit claims that prolonged SHU confinement is cruel and unusual punishment.

Is it not? In the SHU, no work, drug treatment programs, or religious services are permitted. SHU prisoners are not allowed phone calls (except in approved emergencies) or contact visits. Clocks, photo albums, food condiments containing sugar (like ketchup), playing cards, and

chessboards are all banned. Only after a nearly three-week-long hunger strike last year were SHU inmates allowed calendars, as well as handballs to use in the concrete dog run. Their monthly canteen draw is a quarter of the regular population's allowance, as is the one 30-pound package they can receive per year. Pelican Bay Warden Greg Lewis insists this, too, isn't to punish them, but to provide "a very safe environment."

When I ask Bocanegra if the SHU is punishment, he laughs. "It's meant to break a person," he says. "You have to accept whether you want to die back there or you want to change." Leaving the SHU for a unit where he can exit his cell without cuffs and go to an outdoor exercise yard with a small group of other people, he says, made him "feel like you're free." When he walked out of the SHU, he saw his first tree in 12 years.

EVERY DAY, I COME HOME to a new stack of letters from prisoners—our hostage story, it seems, is best known inside America's penitentiaries. For a while, I try to respond to each one, but as the weeks and months pass, they start to pile up. I become afraid of them and all the sorrow they contain. They take me back to my own time in solitary—and how can I go back there every day?

One morning, I sit down at my desk and look at the stack of envelopes slowly taking it over. I need to write these people back. I know what it's like to wait for word from the outside. Some of them remind me of myself while I was locked up, their whole lives bent on staying sane. They write. They read. They exercise. They meditate. Others make me think of what I would have eventually become. Their letters don't make sense. They write me constantly, desperately. They are broken.

Instead of digging into the pile, I place a stack of 18 postcards in front of me and write on each of them a question that has been on my mind since I left Pelican Bay: "Do you think prolonged SHU confinement is torture?" I send them to prisoners across the state and 14 write back, all with the same answer: "yes." One tells me he has developed a condition in which he bites down on his back teeth so hard he has loosened them. They write: "I am filled with the sensation of drowning each and every day." "I was housed next door to...guys who have eaten and drank their own body waste and who have thrown their own body waste in the cells that I and others were housed in. I cry."

There are plenty of studies about the psychosis-like symptoms that result from prolonged solitary. Indicators of what psychiatrist Stuart Grassian calls "SHU syndrome" include confusion and hallucination, overwhelming anxiety, the emergence of primitive aggressive fantasies, persecutory ideation, and sudden violent outbursts.

As I read the medical literature, I remember the violent fantasies that sometimes seized my mind so fully that not even meditation—with which I luckily had a modicum of experience before I was jailed—would chase them away. Was the uncontrollable banging on my cell door, the pounding of my fists into my mattress, just a common symptom of isolation? I wonder what happens when someone with a history of violence is seized by such uncontrollable rage. A 2003 study of inmates at the Pelican Bay SHU by University of California-Santa Cruz psychology professor Craig Haney found that 88 percent of the SHU population experiences irrational anger, nearly 30 times more than the US population at large.

Haney says there hasn't been a single study of involuntary solitary confinement that didn't show negative psychiatric symptoms after 10 days. He found that a full 41 percent of SHU inmates reported hallucinations. Twenty-seven percent have suicidal thoughts. CDCR's own data shows that, from 2007 to 2010, inmates in isolation killed themselves at eight times the rate of the general prison population.

In the SHU, people diagnosed with mental illnesses like depression—which afflicts, according to Haney, 77 percent of SHU inmates—only see a psychologist once every 30 days. Anyone whose mental illness qualifies as "serious" (the criterion for which is "possible breaks with reality," according to Pelican Bay's chief of mental health, Dr. Tim McCarthy) must be removed from the SHU. When they are, they get sent to a special psychiatric unit—where they are locked up in solitary. Some 364 prisoners are there today.

Is long-term SHU confinement torture? The ACLU says yes. Physicians for Human Rights agree. The Center for Human Rights and Constitutional Law and several other prisoner rights groups recently filed a petition with the United Nations claiming just that. Human Rights Watch says at the very least, it constitutes cruel, inhuman, and degrading treatment, which is prohibited by international law.

UN Special Rapporteur on Torture Manfred Nowak once sent a letter to Tehran to appeal on behalf of my fellow hostage, and now wife, Sarah Shourd. Though Josh and I were celled

together after four months, Sarah remained in isolation, seeing us for only an hour a day. Late last year, Nowak's successor, Juan Mendez, came out with a report in which he called for an international prohibition on solitary confinement of more than 15 days. He defined solitary as any regime where a person is held in isolation for at least 22 hours a day. Anything more "constitutes torture or cruel, inhuman or degrading treatment or punishment, depending on the circumstances." When I called Mendez to ask about the SHU, he said, "I don't think any argument, including gang membership, can justify a very long-term measure that is inflicting pain and suffering that is prohibited by the Convention Against Torture."

CDCR, like correctional departments around the country, does not consider the SHU solitary confinement. Inmates have TV, and they have contact with staff when they bring them their food, officials told me. Our interrogators in Iran said the same thing.

JOSH AND I USED TO MAKE up stories about other prisoners who walked past our cell, blindfolded, on their way to the bathroom. In our imaginations, the man who looked to be in his mid-30s with a smooth head and a slim build was the lead singer in an alternative rock band. His anguish was fueled by the fact that the government deemed his music subversive, when all he wanted was to play his guitar. The grizzled old man was a playwright. The guy with the long beard was an imam. The clean-cut twentysomething was an internet hacker.

Lately, it's like I've been doing the opposite—shaping living, breathing people out of snatches of information. Vincent Bruce has written me more than 20 times, and I've read through hundreds of pages of his court and prison files. From this, I can tell you that the 50-year-old has spent nine and a half years in isolation—seven of them alone in the SHU—but I can't tell you whether it shows in his stride like I could with the guys who walked past my cell. I can tell you that when he was 26, he busted out of jail in Chicago, that *The Decline and Fall of the Roman Empire* is one of his favorite books, and that he loves Phil Collins' "In the Air Tonight."

I can tell you that he is one of California's most effective jailhouse lawyers. This is how his days pass: At six o'clock every morning, he wakes up, washes his face, and scrubs the floor of his cell. He does half an hour of yoga and meditation. From noon until dinnertime, he sits hunched over on his bed and pores over whatever legal case he is working on. Sometimes he gets diverted and watches court shows. It's one of his weaknesses.

When Bruce was a kid, he says, his mom had nervous breakdowns when she would turn into a zombie that he had to feed and bathe. Her boyfriend's solution was to "slap her out of it." At 13 or 14 he started running with the Crips. Since then, he has spent a total of about one year on the outside. At 23, he was convicted of three counts of first-degree murder, two counts of attempted murder, and two counts of first-degree robbery, and sentenced to life without parole.

Several years into his incarceration, he started to organize other prisoners. In the 1990s at Salinas Valley State Prison, he crossed the intense racial divide of prison and organized 74 black, white, and Latino prisoners to pressure the administration into providing family visitation, religious services, and better food.

In 1998, Bruce was put in administrative segregation for allegedly assaulting another inmate. Ad-seg, as it is commonly known, is a solitary unit in each prison where inmates are often placed for disciplinary infractions. Some 6,700 California prisoners are in such units.

Bruce's ad-seg term was supposed to last 90 days. While there, he started pushing for improvements—allowing ad-seg inmates access to the exercise yard, reading and writing materials, the law library, and adequate bedding and clothing. Shortly afterward, he was told he wouldn't be getting out of isolation: He was under investigation for gang affiliation. (His time in the Crips, which he says ended years ago, was irrelevant here—indeterminate SHU terms are only given for connections with prison gangs.)

This had happened before, but investigators had determined the evidence "insufficient." This time—using the same evidence—Bruce was validated and transferred to the Pelican Bay SHU. He denies ever affiliating with a prison gang.

Bruce would later write in a legal complaint that the gang investigator told him the goal was to "make an example out of him" because he was acting as a "spokesperson for other prisoners' grievances." It would be nearly three years before he had direct contact with another human being.

In 1999, Bruce sued the department of corrections, claiming he had been put in the hole for being a jailhouse lawyer. Thanks to his legal pestering, the court eventually appointed him an attorney. The case dragged on for seven years. Meanwhile, he was released from the SHU as an "inactive" gang associate and transferred to another prison, where he continued his advocacy, winning at least 25 concessions over a period of six years, including wheelchair-accessible tables

for the yard. At one point he initiated a hunger strike that involved 120 inmates. Two days later, he was put in ad-seg for "conspiracy to assault staff." The claim was based on confidential information that the person in charge of reviewing ad-seg assignments later found did not exist; it couldn't be found anywhere in his file. He spent a year in isolation.

About a year after Bruce was released from ad-seg, CDCR agreed to a settlement in his retaliation suit, paying him \$7,500 and guaranteeing him adequate due process in the future. Ten days later, two assistant gang investigators came to Bruce's cell and confiscated his legal materials, a violation of California law. That same day, he was placed in ad-seg for possession of a shiv. Prison officials later acknowledged that the weapon didn't belong to him, but the charge was never dropped, and he was sent to the SHU to serve a 10-month sentence.

The gang investigator meant to keep him there. In yet another gang validation package, he claimed Bruce's retaliation case against CDCR in itself constituted "gang activity." In January 2008, he was validated as an associate of the BGF and his SHU sentence was extended indefinitely. The evidence against him was confidential. He has been in the SHU ever since.

Six months after his indefinite SHU term began, he received a letter from a young man he'd been celled with a few years before. "Although I tried my best not to let you know I was listening to you," the other prisoner wrote, "my ears was always open when you spoke. Vincent you have made me a wise young man, and did something for me I will never forget." Now, he wrote, "The gang banging life is over with."

INFORMATION OBTAINED FROM prisoners in solitary has long been viewed with suspicion. Numerous psychological studies have found that the more people are subject to sensory deprivation, the more suggestible they become. A 1961 US Air Force study titled "The Manipulation of Human Behavior" cast this as a plus, saying, "Solitary confinement and monotonous, barren surroundings play an important role in making the prisoner more receptive and susceptible to the influence of the interrogator." After the public disclosure of the CIA's 1983 "Human Resource Exploitation Training Manual," which taught agents how to extract confessions without leaving bruises, the agency renounced the use of "coercive interrogation techniques," including solitary confinement, in part because they yielded "unreliable results."

In California, much of the information used to validate prisoners comes from the 108 inmates who debrief every year, creating a revolving door where people get out of the SHU by putting

others in. Pelican Bay gang investigator David Barneburg insists that all information is double-checked against information provided by other sources. But as long as this information is kept secret from everyone, including lawyers, that vetting is left up to investigators—and there's evidence that they are not immune to the temptation to make things up.

In 2006, a prisoner with a violence-free prison record named Ricky Gray was validated as a member of the Black Guerilla Family and given an indeterminate SHU sentence. But the warden at his prison, who Gray claims was sympathetic to his case, took an unusual step: He instructed a staff assistant to reinterview the informants who had given evidence against him. The assistant concluded that the entire validation package was "comprised of conjecture, second hand expression, assumptions, frivolous statements, incomplete documentation, and blatant lack of thorough investigation." Gray managed to obtain a copy of this confidential report, and his lawyer passed it to me, providing a rare glimpse of the type of evidence used in gang validations.

Several of the alleged informants, the assistant wrote, didn't know Gray at all. Two others—said to have reported that Gray was recruiting inmates to the BGF—signed sworn affidavits that they had never been interviewed about the subject and didn't know the guard who compiled their alleged statements. The paperwork that allegedly documented their statements didn't bear their signatures. In another of the interviews used against Gray, the staff assistant says the gang investigator appeared "to be leading" the informant "to answer questions the way he would like."

Like Bruce, Gray believes the gang investigator retaliated against him for his work as a jailhouse lawyer, a role in which he has been particularly successful—his biggest victory was an Eighth Amendment claim against prison guards that won him a \$115,000 settlement from CDCR. Indeed, his legal work is specifically referenced in his validation. One piece of evidence pointedly stated that Gray's "use of correspondence for legal purposes is well documented."

The staff assistant's review recommended that Gray be classified as an "inactive" gang member and stated that Gray "does not have a problem following the rules once he is aware of them." But six years later, Gray remains in the SHU. The warden who ordered the review transferred to another prison 37 days after it was completed, and the gang investigator—the same man who presided over Gray's validation in the first place—chose not to change Gray's validation status in response to the investigation. When Gray took the matter to court, the judge ruled that "a prisoner has no constitutionally guaranteed immunity from being falsely or wrongfully accused

of conduct which may result in the deprivation of a protected liberty interest." In other words, it is not illegal for prison authorities to lie in order to lock somebody away in solitary.

AT SOME POINT DURING THE disorienting reentry blitz that followed my release in September of last year, I heard that in California, prisoners were doing what the three of us had done in Iran: hunger striking to protest isolation. Up to 12,000 inmates participated in protests against long-term SHU confinement across the state, making it probably the largest prison strike in recent history—twice the size of the one that took place a few months earlier. The prisoners were demanding changes to the gang validation policy and an end to long-term solitary.

Implicit in the two hunger strikes was a message: The use of prolonged solitary confinement was leading to the kind of unrest it was meant to tamp down. Nearly three weeks into the 2011 strike, CDCR promised to make changes to its gang validation policy. Since then, it has been hammering out a set of reforms, aimed primarily at turning the policy into a "behavior-based" one. This would bring California in line with other states that—at least on paper—segregate people only when they engage in violent or dangerous activity.

The new policy, which is already being rolled out on a pilot basis, will also include a "step down" program that would allow inmates to work their way out of the SHU over a four-year period, rather than wait six years before their case is even reviewed. After a year of abstaining from gang activity in the SHU, an inmate will be able to get one phone call per year, a deck of cards, and the ability to spend 11 more dollars at the canteen every month. After three years, he'll be allowed a chessboard, and his family will be able to send him two packages each year rather than one.

Department officials in Sacramento wouldn't talk to me about the new policy—after my visit to Pelican Bay, they declined further interviews, citing pending litigation. But when I talked to CDCR spokeswoman Terry Thornton about the reforms, she said, "I think you are going to see a lot of people classified as associates getting out of the SHU." Under the new policy, associates—unlike members—of prison gangs will only be put in the SHU if they commit a "serious" rule violation or two "administrative" rule violations.

Here's the catch, though: CDCR is vastly expanding what counts as rule violations. Under current regulations, "serious" violations are things like assaults, drug use, and escape attempts.

But in the latest version of the reforms, the definition includes possession of "training material" for security threat groups (the new term for gangs), like the books listed earlier. Things that didn't previously count as a rule violation—such as making artwork depicting threat-group symbols, communication showing threat-group behavior, and anything that "depicts affiliation" with a threat group—will all be serious rule violations on par with stabbing somebody. "Administrative rule violations" will now include many new categories, such as possession of photos of validated threat-group affiliates.

Most critically, the new security threat group category doesn't just denote prison gangs, but also includes a much larger number of "disruptive groups." Among these are street gangs, motorcycle gangs, and "revolutionary groups." The list of disruptive organizations that CDCR gave me runs to 1,500, including not only the Bloods and Crips, but also the Juggalos, the dedicated clown-faced following of the dual-platinum horrorcore hip-hop group Insane Clown Posse. The Black Panthers are on the list, as are a couple of Nation of Islam-affiliated groups. One category is titled "Black-Non Specific," suggesting that any group with the word "black" in its name can be considered disruptive. (CDCR would not respond to my questions on this matter.)

Taken together, the policy changes could mean that a Crip taking part in a hunger strike, a Black Panther with a drawing he made of his organization's namesake cat, or an Insane Clown Posse fan with an album cover and a concert photo could receive indeterminate SHU terms.

ONE NIGHT, I STARE AT THE PILE of letters on my desk. I can't let it keep growing, so I take it over to the couch and read through them all. It's painful. A part of me relates to these people, but, like I wanted to tell Lieutenant Acosta when I stood in that cell, there are such huge differences too. They are criminals; I was a hostage. They are spending many years in solitary; I did four months.

But still, I can't escape the fact that their desperate words sound like the ones that ricocheted through my own head when I was inside. When I finish the stack of letters, I dig up the first correspondence I ever received from a prisoner. He has been out of the SHU for years, but through his florid prose, I hear the voice of someone who is still profoundly disturbed by the time he did there.

March 27, 2012

...Like you, I know what it is like to have our very existence internalized to the point of kissing Siren on the lips while she guided us to the rocks of insanity. Then, wondering if we'd ever escape her spell. Fortunately we both did. But as you will learn about you and me, we did not come out unscathed. At times...I mourn the solitude of days gone past. Days where time lost all meaning; to the point where I knew not if I was alive or dead; and where sometimes I did not care either way...

—Steve Castillo

After I read this, I go to the big wicker chest at the foot of our bed. In it are letters written to me by friends, family, and strangers that I never received because the Iranian censors would only let in mail from immediate family. There are hundreds of these; I keep them because I think I might read them some day. But not now. Instead, I grab a little piece of paper that is covered in microscopic writing, the script so small and the shorthand so esoteric that I can hardly read it, even though it was written by my own hand. It is the only piece of my prison journal—written on scraps of paper and hidden in the spines of books—that made it out.

The more one is utterly alone, the more the mind comes to reflect the cell; it becomes blank static...

Solitary confinement is not some sort of cathartic horror of blazing nerves and searing skin and heads smashing blindly into walls and screaming. Those moments come, but they are not the essence of solitary. They are events that penetrate the essence. They are stones tossed into an abyss. They are not the abyss itself...

Solitary confinement is a living death. Death because it is the removal of nearly everything that characterizes humanness, living because within it you are still you. The lights don't turn out as in real death. Time isn't erased as in sleep...

I carefully fold up the note, put it back in the chest, and step out onto our little second-story porch, into the breeze and the sun.

Shane Bauer was one of the three American hikers imprisoned in Iran after being apprehended on the Iraqi border in 2009. He spent 26 months in Tehran's Evin Prison, 4 of them in solitary. He lives in Oakland, California, with his fellow hostage and now wife, Sarah

Shourd. Together with the third former hostage, Josh Fattal, they are working on a book about their captivity that is due out in 2014. Follow him on Twitter [here](#).

[Hugo Pinell: Is 42 years in isolation about to end?](#)

by Kiihu Nyasha

UPDATE: Yogi's [[Hugo Pinell's](#)] board hearing has been postponed another year due to CDCR's new gang validation rules. *Uncommon Law*, the firm of Keith Wattley, is handling Yogi's case and they think they can get some relief for him under the new rules. So let's do everything we can to support Yogi and help him to stay strong in that hell hole for another year.

It would be a good thing for those with resources to check with attorney Wattley at (510) 271-0310 or kwattley@theuncommonlaw.com to see if Yogi needs financial assistance in covering legal fees.



Hugo Pinell, affectionately known as Yogi Bear, in 1982

In November 2008, voters passed Proposition 9, under which people serving indeterminate life sentences could be denied parole and another hearing for three to 15 years, instead of the established one to five years. Prop 9 argued that people convicted of serious crimes were being released from prison too frequently. This simply is not the case.

About 30,000 people were serving life sentences, and about 4,000 applied each year to appear before a two-member panel for a parole recommendation. Less than one percent received release dates in a given year. In 2006, for example, only 23 lifers were granted parole, less than 0.5 percent of those eligible for release.

The California Parole Board held a hearing for Hugo Pinell (Yogi Bear) on Jan. 14, 2009, at which they denied him parole and scheduled him to return to the board in 15 years! However, since Prop 9 wasn't in effect in 2009 when his hearing was scheduled and postponed, the decision had to be rescinded.

A new hearing has been scheduled for May 2012, at which Yogi anticipates a 15-year hit. He would return to Board in 2027 at age 82!

Hugo Pinell has been in Pelican Bay SHU – no windows or natural light, very restricted possessions, no phone calls, 24/7 lockup unless permitted to exercise *alone* for an hour in an outdoor enclosure, no-contact visits of less than an hour only on weekends or holidays.

Pelican Bay is isolated in the Northwest corner of California, a very long trip by car. His mother, in her 80s with health problems, has continued to make that long trip to visit her son, now 67 years old. Can you even imagine not being able to hug your own son for over four decades?

Yogi has been in solitary confinement for at least 42 years, first in San Quentin, Folsom and Corcoran and the last 22 in the Pelican Bay SHU. He was 19 when incarcerated in 1964; in prison 48 years altogether, he's been in solitary confinement at least 42, despite 32 years of clean time – no write-ups.

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Yogi earned the enmity of the prison officials back in the 1960s when he was part of the “Black Movement” behind California prison walls led by George L. Jackson, W.L. Nolen and many other conscious, standup brothers who made it safe for Blacks to walk the yards of California's extremely racist gulags.

On Aug. 21, 1971, in what has been deemed a setup, Soledad Brother George Jackson was murdered on the yard of San Quentin by prison guards. During this orchestrated attempted escape, however, three guards were also killed, along with two inmate “trustees.”

This set the prison officials on fire, and they've been exacting revenge ever since on Hugo Pinell, the only defendant in the San Quentin Six case still in prison. The only defendant convicted of murder in the case, Johnny Spain, was released in 1988.

Clearly Yogi is a political prisoner, although the U.S. rarely if ever admits to holding any political prisoners. Our revolutionary hero is still strong of mind and body, has maintained his health with a strictly vegetarian diet and a grueling exercise program. His character and personality are evident in the following missive to Terry Collins.

Please write letters to newspaper editors, to Gov. Jerry Brown, the Parole Board and anyone else who might influence the board to make a humane decision to stop this senseless ongoing torture of Hugo Pinell. Contact Gov. Brown c/o State Capitol, Suite 1173, Sacramento, CA 95814, phone (916) 445-2841, fax (916) 558-3160 or by email online at http://gov.ca.gov/m_contact.php. Contact the parole board at Board of Parole Hearings, P.O. Box 4036, Sacramento, CA 95812-4036.

Power to the people! Here is Yogi's letter to Terry Collins of KPOO Radio 89.5FM:

My Brother Terry,



Hugo “Yogi” Pinell, one of Black Panther Field Marshall George Jackson’s closest comrades, talks with a visitor at Pelican Bay State Prison in 2001 behind the glass and inside the visiting cell.

Best of love and health to you and family. It’s good to hear from you, always, even through the hard times, because we can share and be solid company. Thank you for the kind words and for recognizing the great work of a few brothers in here, from so long ago, who were really serious about liberation and the transformation of self.

For me, it begins with the new W.L. in San Quentin in March in 1967, because I remember the old W.L. in Soledad, in 1963-64, when he was consistently messing up, as were most of us youngsters. Therefore, when the new W.L. greeted me in San Quentin, and he was handing me some literature and telling me about the Black Consciousness studies, the Self Reliant Principles of living, the Black Liberation Movement and the building of the New Man, he became my principal example because I noticed the positive and significant changes in him. He used Malcolm as our primary example of self-transformation and he felt that all of us brothers could make that same transformation, and not talking about religion because that should be a conscientious personal choice.

Yes, there was the objective of converting the criminal mentality into a revolutionary mentality, but that was only one phase of the self-transformation process, and that’s why Brother Malcolm played a big role in our mode of transformation. San Quentin was the best station in the CDC for Black prisoners to get socially and politically educated because we had some righteous brothers in the liberation movement paving the way for us to learn, grow and really transform.

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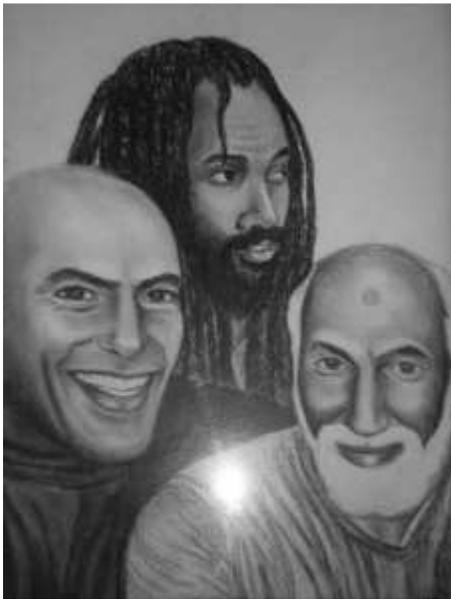
We had Muslim brothers receiving all kind of Black literature and consciousness material along with their religious material, and they would share it with all brothers interested in learning and changing. Also, by 1967, there were several Black organizations in the U.S. including the Panther Party in Oakland, founded in 1966, and some brothers were receiving revolutionary and world history material from some of these organizations and would share it.

All of that literature was part of consciousness studies, our self-reliant principles of living and self-transformation process. Most of us were very young, doing short sentences (supposedly), had been through the gladiator stations, Tracy and Soledad, and the time and place was right for self-change. We had the teachers, examples, the literature, the means and the opportunities, so it was up to us, how seriously devoted we would be toward real self-change.

This was a “wake up,” “grow up,” “self-transform,” “liberate” call and it was a voluntary thing, but to join the liberation movement we had to understand the meaning of liberate and, to embark on a commitment to freedom, we had to do away with old ways, old habits, f—d up mentality, the club, homeboy set mentality and attitude.

It was in the self-transformation process, according to our teachers. The New Man (a lifetime building) represents constant growth. History teaches us how terribly we were damaged and left to try and figure out and fit in a social structure in which we would remain confined, controlled, limited and surviving in the revolving doors.

Therefore, our best way to become free again but for good this time was and is the Malcolm self-evolvement way. Take as much control as



Political prisoners Hugo Pinell, Mumia Abu Jamal and the late Nuh Washington – Drawing: Kiilu Nyasha

possible of our minds, our senses, our energies, our emotional and spiritual powers and gradually create new selves. If we would have been self-transforming for the last 60, 50 years, there would not be millions of new slaves today and we would have the power to be making an impact and difference toward the building of the New World. Millions of us would be feeling so personally free, so new and strong and proud and rewarding of the constant evolvement work we put in over the years.

If we would have been self-transforming for the last 60, 50 years, there would not be millions of new slaves today and we would have the power to be making an impact and difference toward the building of the New World.

This is what W.L. Nolen was emphasizing the most: self-transformation. We study, observe, we learn and use everything that's positive, constructive, truly revolutionary and compassionate to begin transforming, building anew while constantly doing away with the old, like Malcolm kept growing. The wonderful thing is that we were in control of these constant self-changes and there is no time limit, but we have to keep at it even if sometimes we stagnate. Our new ways of living become our freedom road and goal. If we grow tired, upset, afraid, stagnant, we stay on that road and then keep on pushing and growing.

I'm telling you how W.L. and the other great brothers were seeing things and realizing what we had to do to get out of prisons and become human builders and difference makers in the world. In the '50s, there weren't many brothers in the CDC and they were getting victimized. Then, in the '60s, too many brothers were being sent to the CDC and the teachers felt we had to change, get out, become constructive and productive in society, while constantly transforming, and we wouldn't have to occupy the cells in the CDC.

Unfortunately, my brother, more prisons were built, more brothers sent to these prisons and hardly any new selves built? Something happened along the way. All I know is that our teachers kept saying: "No matter what, wherever we are, if we're alive and able, we gotta keep pushing and growing. It's the only personal way to continue our growth and become free."

Our teachers kept saying: "No matter what, wherever we are, if we're alive and able, we gotta keep pushing and growing. It's the only personal way to continue our growth and become free."

Malcolm and Martin kept on pushing and evolving, in spite of the dangers and everything. You and Yuri and Kiilu, on the streets, have continued to push and grow. Even if you have stagnated, or get to feeling old, you keep on pushing and are serving the public, and being my good brother and friend. Thank you.

There is so much I can share with you, but I wanted to give you a little passage of what was going on in San Quentin when I was transferred there from Soledad in March of 1967 and the great impact all that activity and new changes had on me, especially meeting some dynamic brothers and teachers, and my best example in W.L.

I went through some bumps and stagnation before I started putting it all together and pushing on, but my foundation for change and struggle for freedom began in San Quentin in 1967.

Your brother,

Hugo

For more information, go to www.hugopinell.org.

Torturous Milestone: 40 Years in Solitary

Constitutional claim may be the last chance for aging Angola 3 inmates.

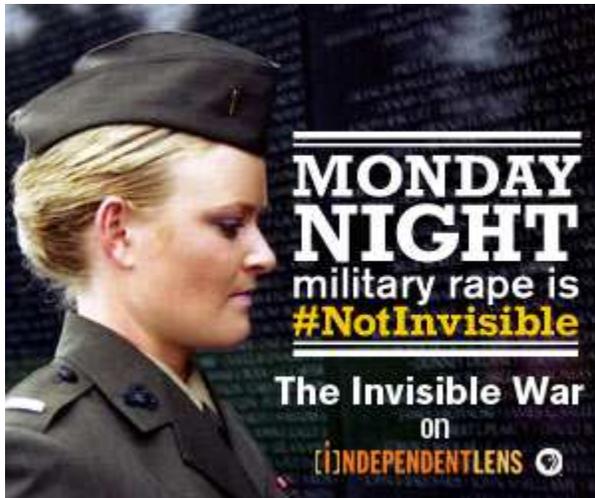
—By James Ridgeway and Jean Casella



Herman Wallace (left) and Albert Woodfox with Angola prison in the 1970s (background) In the Land of the Free

On the world stage, Guantanamo may well stand as the epitome of American human rights abuses. But when it comes to torture on US soil, that grim distinction is held by two aging African American men. As of today, Herman Wallace and Albert Woodfox have spent 40 years in near-continuous solitary confinement in the bowels of the Louisiana prison system. Most of those years were spent at the notorious Angola Prison, which is why Wallace and Woodfox are still known as members of the Angola 3. The third man, Robert King, was released in 2001; his conviction was overturned after he'd spent 29 years in solitary.

Wallace and Woodfox were first thrown into the hole on April 17, 1972, following the killing of Brent Miller, a young prison guard. The men contend that they were targeted by prison authorities and convicted of murder not based on the actual evidence—which was dubious at best—but because they were members of the Black Panther Party's prison chapter, which was organizing against horrendous conditions at Angola. This political affiliation, they say, also accounted for their seemingly permanent stay in solitary.



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For four decades, the men have spent at least 23 hours a day in cells measuring 6 feet by 9 feet. These days, they are allowed out one hour a day to take a shower or a stroll along the cellblock. Three days a week, they may use that hour to exercise alone in a fenced yard. Wallace is now 70; Woodfox is 65. Their lawyers argue that both have endured physical injury and "severe mental anguish and other psychological damage" from living most of their adult lives in lockdown. According to medical reports submitted to the court, the men suffer from arthritis, hypertension, and kidney failure, as well as memory impairment, insomnia, claustrophobia, anxiety, and depression. Even the psychologist brought in by the state confirmed these findings.

Over the past decade, as news of their situation spread, the Angola 3 have become an international cause célèbre. They have thousands of supporters, and their case has been taken up by several major human rights and civil liberties organizations, including Amnesty International, which intends today to deliver a 65,000-signature petition to Louisiana Gov. Bobby Jindal, demanding that Wallace and Woodfox be released from solitary into the general prison population.

Angola warden Burl Cain said he would keep Woodfox in lockdown regardless of his crimes: "I still know that he is still trying to practice Black Pantherism."

The Angola 3 have been the subject of two documentaries. *In the Land of the Free*, narrated by actor Samuel L. Jackson, came out in 2010. A brand new doc, *Herman's House*, premiered at the Full Frame Documentary Film Festival this past Saturday. It tells the story of Wallace's collaboration with a young artist—via letters and phone calls—to design the "dream house" he envisioned from his prison cell. The BBC also launched a radio documentary last week in

anticipation of the anniversary, and the story has received international coverage, some of the earliest and most comprehensive coming from *Mother Jones*. (See [here](#), [here](#), and [here](#).)

In each man's case, a federal judge has supported the claim that they did not receive fair trials. And although the state successfully appealed these decisions, the men are not through fighting to overturn their convictions. Meanwhile, a team of distinguished lawyers is pushing forward on a lawsuit claiming the men have been subjected to cruel and unusual punishment, in violation of the Constitution. In 2009, a US magistrate judge allowed the suit to proceed. A few years earlier, the same judge had noted that Wallace and Woodfox had been isolated for "durations so far beyond the pale that this court has not found anything even remotely comparable in the annals of American jurisprudence."

The civil suit also claims First Amendment violations, based on the contention that the men are being held in solitary for their political beliefs. By all accounts, it represents the pair's only hope of making it out of solitary alive. Elderly and frail, with decades of essentially clean disciplinary records, it's hard to imagine that Wallace and Woodfox could present any threat to prison safety. But they may present a threat to the reputations of two men who are powerful fixtures in Louisiana politics.

Burl Cain, the warden of the Louisiana State Penitentiary at Angola—profiled [here](#)—holds power over the lives of more than 5,100 men living at the notorious plantation prison, which occupies a piece of land the size of Manhattan. Widely celebrated in Christian evangelical circles for having brought thousands of incarcerated sinners to Jesus, Cain has stated that he believes the only true path to rehabilitation is Christian redemption. Those who follow his lead and become born again see their freedoms and opportunities expand at Angola, while those who defy him are dealt with harshly.

In a 2008 deposition, attorneys for Woodfox asked Cain, "Let's just for the sake of argument assume, if you can, that he is not guilty of the murder of Brent Miller." Cain responded, "Okay, I would still keep him in CCR [solitary]...I still know that he is still trying to practice Black Pantherism, and I still would not want him walking around my prison because he would organize the young new inmates. I would have me all kind of problems, more than I could stand, and I would have the blacks chasing after them...He has to stay in a cell while he's at Angola."

The following year, in a deposition for the Angola 3's civil case, Cain was pressed for his views on the Black Panther Party. "It's a militant party," he told lawyer George Kendall, who went on to recite some Black Panther tenets:

Q: How about this, "We want full employment for our people"?

A: That's great.

Q: No problem with that?

A: No.

Q: "We want end to the robbery by the capitalists of our black community"...Is that militant in your eyes?

A: It is.

Q: How so?

A: Because the capitalists are divisive in the country. It's too general, capitalists don't go rob a group of people.

Q: There are plenty of people at Wall Street at this moment that—

A: When he said "our people" he's talking about black people, so they robbed everybody, me too. We've got to get away from this race stuff.

Cain also seemed to suggest that solitary confinement could be preferable to life in the general population. When he had to move a group of prisoners out of solitary and into a high-security dormitory, he told Kendall, "It shocked me when some of them didn't want to come out of the cell. Honestly, I couldn't believe that." He continued:

It turned out they were comfortable where they were and they liked their little privacy, they liked their little room, they liked their little box, they liked that nobody had to deal with them. And then I got the complaint over in the dormitory that they didn't like being with those other

people because they just felt like they wanted their privacy. So it taught me a lot about humans, just that little dormitory.

Q: Is there such a thing as people, if they stay in their cell too long that they have trouble living...

A: It wasn't trouble, it wasn't trouble. It was that they liked it, they got used to it and they liked it.

Q: They're more comfortable in the cell than they are in the dorm.

A: Well, in prison it's privacy. How do you like to go to the bathroom with 10 other people maybe at the same time and you're sitting right beside them, versus having your own private little bathroom, your private little toilet...Now where would you really rather be?

In fact, both Wallace and Woodfox were eventually moved to separate prisons, perhaps in an effort to dispel the Angola 3 mystique and to ensure that if they are eventually released from solitary, they will never be housed together. Wallace now resides in a maximum security prison near Baton Rouge while Woodfox in a remote lockup in the northwestern part of the state. Both remain in solitary, in conditions some of their supporters say may be worse than those at Angola.

After Woodfox's conviction was overturned, the state allegedly emailed the neighborhood association where his niece lived to warn that a murderer would be moving in.

If there is any man more opposed than Burl Cain to releasing Wallace and Woodfox from solitary, it might be James "Buddy" Caldwell, Louisiana's attorney general. An ambitious Democrat-turned-Republican known for his Elvis impersonations, Caldwell took office in 2007 and was reelected last year. He has characterized the Angola 3 as political radicals and called Woodfox "the most dangerous person on the planet."

In the fall of 2008, after Woodfox's conviction was overturned, a federal court judge ordered him released on bail pending the state's appeal. Caldwell opposed the release "with every fiber of my being." Woodfox planned to stay with his niece, but his lawyers uncovered evidence that the state had emailed the neighborhood association of the gated community where she lived to say

that a murderer would be moving in next door. Caldwell soon convinced the conservative 5th US Circuit Court of Appeals to revoke Woodfox's bail. He also brought Woodfox's habeas case to the full 5th Circuit, which reversed the lower court ruling and reinstated his conviction.

Woodfox and Wallace now likely face their last chance for new trials. Wallace's habeas claim is under consideration by a federal court, while Woodfox's lawyers have mounted a fresh challenge, claiming racial discrimination in the selection of his jury's foreperson; a key evidentiary hearing is scheduled for May. The men's civil case, meanwhile, might finally go to trial this year. Assuming it moves forward as expected, it stands to set precedents that could one way or another affect the fates of some 80,000 people now held in solitary confinement in US prisons and jails.

[Lawsuit Challenges Solitary Confinement at California Prison](#)

Prolonged Solitary Confinement at Pelican Bay is Cruel and Unusual Punishment, Torture, Lawyers Say

May 31, 2012, Oakland – Today, the Center for Constitutional Rights (CCR) filed a federal lawsuit on behalf of prisoners at Pelican Bay State Prison who have spent between 10 and 28 years in solitary confinement. The legal action is part of a larger movement to reform inhumane conditions in California prisons' Security Housing Units (SHU), a movement dramatized by a 2011 hunger strike by thousands of SHU prisoners; the named plaintiffs include hunger strikers, among them several of the principal negotiators for the hunger strike. The class action suit, which is being jointly filed by CCR and several advocate and legal organizations in California, alleges that prolonged solitary confinement violates Eighth Amendment prohibitions against cruel and unusual punishment, and that the absence of meaningful review for SHU placement violates the prisoners' right to due process.

“The prolonged conditions of brutal confinement and isolation such as those at Pelican Bay have rightly been condemned as torture by the international community,” said CCR President Jules Lobel. “These conditions strip prisoners of their basic humanity and cross the line between humane treatment and barbarity.” Advocates hope that the suit will strike a blow against the increasingly routine use of solitary confinement in American prisons.

SHU prisoners spent 22 ½ to 24 hours every day in a cramped, concrete, windowless cell. They are denied telephone calls, contact visits, and vocational, recreational or educational programming. Food is often rotten and barely edible, and medical care is frequently withheld. More than 500 Pelican Bay SHU prisoners have been isolated under these conditions for over 10 years, more than 200 of them for over 15 years; and 78 have been isolated in the SHU for more than 20 years. Today's suit claims that prolonged confinement under these conditions has

caused “harmful and predictable psychological deterioration” among SHU prisoners. Solitary confinement for as little as 15 days is now widely recognized to cause lasting psychological damage to human beings and is analyzed under international law as torture.

Additionally, the suit alleges that SHU prisoners are denied any meaningful review of their SHU placement, rendering their isolation “effectively permanent.” SHU assignment is an administrative act, condemning prisoners to a prison within a prison; it is not part of a person’s court-ordered sentence for his or her crime. California, alone among all fifty states and most other jurisdictions in the world, imposes extremely prolonged solitary confinement based merely on a prisoner’s alleged association with a prison gang. Gang affiliation is assessed without considering whether a prisoner has ever undertaken an act on behalf of a gang or whether he is – or ever was – actually involved in gang activity. Moreover, SHU assignments disproportionately affect Latinos. The percentage of Latino prisoners in the Pelican Bay SHU was 85% in 2011, far higher than their representation in the general prison population, which was 41%. The only way out of SHU isolation alive and sane is to “debrief,” to inform on other prisoners, placing those who do so and their families in significant danger of retaliation and providing those who are unable to debrief effectively no way out of SHU isolation.

Legal Services for Prisoners with Children, California Prison Focus, Siegel & Yee, and the Law Offices of Charles Carbone are co-counsel on the case.

The case is [Ruiz v. Brown](#), and it seeks to amend an earlier *pro se* lawsuit filed by Pelican Bay SHU prisoners Todd Ashker and Danny Troxell. The case is before Judge Claudia Wilken in the United States District Court for the Northern District of California. Use this link to [read the ammended complaint](#).

The Center for Constitutional Rights is dedicated to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights. Founded in 1966 by attorneys who represented civil rights movements in the South, CCR is a non-profit legal and educational organization committed to the creative use of law as a positive force for social change

[**Sacramento hearing exposes CDCR’s hidden agenda**](#)

March 5, 2013

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by Denise Mewbourne

Almost two years later, the ripple effect of the 2011 hunger strike organized by the Short Corridor Collective in Pelican Bay prison continues to reverberate throughout California. In

protest of solitary confinement torture in California's Security Housing Units (SHUs), 12,000 people in prisons throughout the state participated in the hunger strike.



At the rally outside the Capitol in Sacramento before the Assembly Public Safety Committee's hearing on solitary confinement Feb. 25, Daletha Hayden, one of many prisoners' loved ones who came, spoke passionately about her son in the Tehachapi SHU. He has not been able to see or touch his 15-year-old son since he was 3. "This is painful, and it tears families apart," she said. "We have to fight so our loved ones can be treated as well as animals! My son needs medical treatment, and SHU officials refuse for him to have it." – Photo: Denise Mewbourne

California currently holds 12,000 people in some form of isolation and around 4,000 in long-term solitary confinement. Around 100 people have spent 20 years or more in these hellholes, including many who are activists against prison abuses, political thinkers and jailhouse lawyers. People imprisoned in the SHU have described it as "soul-crushing," "hellish," a "constant challenge to keep yourself from being broken" and "a concrete tomb."

As a result of the strike, the first legislative hearing in Sacramento occurred in August 2011, and at the grassroots level family members of those inside formed California Families to Abolish Solitary Confinement (CFASC) to continue the work they had done during the strike. The Prisoner Hunger Strike Solidarity Coalition (PHSS) began strategizing how best to provide support well in advance of the hunger strike and continues its mission of amplifying the voices of people in the SHUs.

The strikers' five core demands around abolishing group punishment, eliminating debriefing, ending long term solitary confinement, adequate and nutritious food, and constructive programming are still far from being met, although the California Department of Corrections and Rehabilitation (CDCR) claims to be implementing new policies on how people are sentenced to the SHU as well as how they can exit.

The hearing in Sacramento on Feb. 25, 2013, provided an opportunity for legislators in the Assembly's Public Safety Committee to hear representatives of CDCR present their new policies and weigh the truth of their claims. The occasion also featured a report back from the Office of the Inspector General about onsite inspections conducted at Pelican Bay, as well as a panel of advocates.

Chaired by Tom Ammiano, the committee had a chance to question the panelists, and at the end there was a scant 20 minutes for public input. Attendance of grassroots activists, including family members and formerly incarcerated people, was organized by California United for a Responsible Budget (CURB). The CURB coalition focuses on reducing the number of people in prison as well as the number of prisons throughout California.

The rally

Beginning with a rally held on the capitol steps, it was an emotional day for many, especially for family members of those suffering in the SHUs and prison survivors. The voices of those in the SHU were powerfully present, both in stories told by family members as well as statements they had sent for the occasion.



Prisoners' families and advocates turned out for a rally followed by the Assembly hearing Feb. 25. The next opportunity to persuade state lawmakers to "stop the torture" is bound to draw far more of the hundreds of thousands of prisoners' rights supporters from around California. – Photo: Urszula Wislanka

The opening of the letter Gilbert Pacheco read from his brother Daniel in Corcoran Prison summed up the solidarity of the day: "Allow me to expend my utmost respects along with my

utmost gratitude and appreciation to all of you who are out here supporting this struggle and allowing mine along with thousands of other voices to be heard! Gracias/Thank you.”

Family members from all over California spoke about loved ones who were being unjustly held for 10, 15, even 25 years or more in solitary confinement, how they were entrapped into solitary and the conditions they face. Marilyn Austin-Smith of All of Us or None, an organization working for human rights of formerly incarcerated people, read a statement from Hugo Pinell, surviving and resisting solitary confinement for 42 years.

Daletha Hayden from Victorville, Calif., spoke about her son who has been in SHU in Tehachapi for four years. He has missed 12 years of his 15-year-old son’s life, having not been able to see or touch him since he was 3. She said, “This is painful, and it tears families apart. We have to fight so our loved ones can be treated as well as animals! My son needs medical treatment, and SHU officials refuse for him to have it.”

Karen Mejia’s fiancé has been in SHU for six years. She stated that to her knowledge, the CDCR never got input from anyone imprisoned in the SHUs regarding their new policies. She went on to say that “if they followed their own policies, the SHU would be half empty, and they don’t want that because of their salaries and budget.”

Recently, they subjected her fiancé to particularly humiliating treatment. After she visited him, they punished him for being “sexually disorderly” with her. She said, “They painted his cell yellow and forced him to wear a yellow suit, which they do for sex offenders. In general population, he could have been killed for that.”



Marilyn Austin-Smith of All of Us or None, flanked by Sundiata Tate and Bato Talamantez of the San Quentin 6, read from a letter by Hugo Pinell, recognized internationally as a political prisoner and the only member of the San Quentin 6 still in prison – now for over 42 years in solitary confinement, most of it in the dreaded Pelican Bay SHU. His name was raised repeatedly in public testimony at the hearing. – Photo: Azadeh Zohrabi

Looking at the hypocrisy in the U.S. around torture and human rights, Dolores Canales from CFASC angrily noted that in a recent case, “All it took was a federal order to stop chimpanzees from being held in solitary confinement. It has been determined it’s detrimental to their mental and physical health, because they are social animals and have a need to see, hear and touch each other. Aren’t humans also social beings?!”

Luis “Bato” Talamantez, one of the San Quentin 6, said, “Sending your love to the people inside and helping them to stay connected and spiritually alive is the most important thing you can do with your life right now.”

The rally ended on a positive note with Luis “Bato” Talamantez, one of the San Quentin 6, saying, “Sending your love to the people inside and helping them to stay connected and spiritually alive is the most important thing you can do with your life right now.”

The crowd then filed into the hearing room, which filled up quickly, so around 40 people viewed it in an overflow area. For the next three hours, a few of the legislators, the human rights-focused panelists and the public in attendance did their best to sort through the obfuscations, omissions, misrepresentations and outright lies told by the CDCR and colleagues.

The lies from CDCR

One mistaken idea the hearing quickly cleared up was that any real oversight might come from the California Rehabilitation Oversight Board (CROB) in the Office of the Inspector General.

Speaking from CROB was Renee Hansen, who became executive director of the board in 2011, after 20 years of working for CDCR. Perhaps that explains the board’s less than thorough attempt at a real investigation of conditions in the SHUs and the glowing report she gave. When asked by Ammiano if they had conducted any surprise visits, she replied they had not.



Every seat was filled for the California Assembly Public Safety Committee’s historic hearing on SHUs Feb. 25, and dozens more watched on TV in an overflow area. Besides the legislators in the hearing room, many more watched in their offices and said they were aghast at what they heard. – Photo: Sheila Pinkel

One of the myths the CDCR uses to justify SHUs is that they house the “worst of the worst,” and this hearing was no exception. Michael Stainer, CDCR deputy director of facility operations, testified: “The offenders in the SHU are 3 percent of the entire population. They have an inability to be integrated because of violence, and are affiliates of dangerous prison gangs. It’s necessary to isolate them to protect the other 97 percent.”

But Canales said: “My son is in there, and he has certificates in paralegal studies and civil litigation. At Corcoran he was Men’s Advisory Council representative, when one person from each ethnic group gets voted in by their peers, and others go to them for help with prison issues.” And it’s not just her son who doesn’t fit the “ultra-violent” profile. “A lot of the guys in there have all kinds of education and are helping others with legal work. Many of them have been using their time to educate themselves.”

Hansen testified they found no evidence of retaliation for the hunger strike. Yet Charles Carbone, a prisoner rights lawyer who testified on the panel, said, “Make no mistake about it: Participating in a hunger strike can get you in the SHU.”

Assemblywoman Holly Mitchell asked, “How can participation in an act of peaceful civil disobedience like a hunger strike be construed as gang activity?” Ominously, Kelly Harrington, associate director of high security transitional programming (STP) for CDCR, said, “Hunger strikes can be viewed as violating institutional security.”

Marilyn McMahon with California Prison Focus reports letters from people in SHUs about food quality going down and portion sizes shrinking, especially after the administration heard of the potential resumption this summer of the hunger strike. “I suspect,” she said, “they are trying to prevent a hunger strike by starving the men beforehand. It’s another example of the outrageous behavior that happens when there’s no oversight of how prisoners are treated – no media access, no unannounced inspections, just CDCR staff monitoring themselves.”



Assembly Public Safety Committee members Nancy Skinner, Holly Mitchell and Reggie Jones-Sawyer listen to Charles Carbone, Laura Magnani and Irene Huerta (Marie Levin, also on the panel, is out of view) on the prisoners' advocates panel. Assemblywoman Mitchell's understanding of the prisoners' situation and tough questions for CDCR were a highlight of the hearing. – Photo: Sheila Pinkel

In another bold mockery, CDCR claimed their new policies include substantial changes in the process of “gang validations,” the categorizing of people as “gang members or associates,” resulting in SHU placement for indeterminate sentences. In the past, the validation process has been based on points given for tattoos, possession of books or articles the CDCR deems gang-related, having your name on a roster, and/or the confidential evidence of a “debrief,” another desperate soul who has identified you as a gang member to get out of the SHU himself. Three points is enough to send you to the SHU. According to many reports from SHUs around the state, it often happens that people get sent to there for things that are purely associational and in complete lack of any actual criminal behavior.

In point of fact, items given points toward validated gang status are often related to cultural identity and/or political beliefs. Some examples are books by George Jackson or Malcolm X, Black Panther Party books or articles, materials about Black August commemorations, the Mexican flag, the eagle of the United Farm Workers, articles on Black liberation, political cartoons critical of the prisons, Kwanzaa cards and Puerto Rican flags, just to name a few.

The CDCR gave a list of their own officials when asked who was doing the gang classifications, and Ammiano noted they were all internal to CDCR, with no independent verification. Family members at the rally spoke of many unfair instances of gang validation points given to their family members. Irene Huerta's husband was validated for a “gang memo” that was never found!

Carbone confirmed in his testimony that there was no real change in the source items given points, that still only *one* of your point items even needs to be recent and the other two can be 20 years old, and that “the new program actually *expands* rather than restricts who can be validated, by the addition of two categories. Initially we just had gang ‘members’ and

'associates,' but now we also have 'suspects' and 'to be monitored.'" He went on to say "only the CDCR could call expansion reform."

Charles Carbone, a prisoner rights lawyer who testified on the panel, said, "Make no mistake about it: Participating in a hunger strike can get you in the SHU."

As Pacheco says from Corcoran Prison: "This validation process is not about evidence gathering that contains facts. It's hearsay, corruption and punishment to the point of execution. It's close to impossible to beat these false accusations on appeal. They know how to block every avenue. In other words, there is no pretense that rights are respected. Shackled and chained we remain."

The centerpiece of the CDCR's deceptive "reform" is the "Step Down Program," in theory a phased program for people to get out of the SHU. The program would take four years to complete, although they said it could potentially be done in three. It involves journaling, self-reflection and, in years three and four, small group therapies.

In a statement issued for the event by the NARN (New Afrikan Revolutionary Nation) Collective Think Tank or NCTT at Corcoran SHU, the writers roundly condemned the program, saying that CDCR "has, in true Orwellian fashion, introduced a mandatory behavior modification and brainwashing process in the proposed step down program." Abdul Shakur, who is at Pelican Bay and has been in solitary confinement for 30 years, calls it the "equivalent to scripting the demise of our humanity" in his article "Sensory Deprivation: An Unnatural Death."



The passionate testimony of Marie Levin and Irene Huerta will help bring an end to the torturous entombment of their loved ones in the Pelican Bay SHU. – Photo: Becky Padi-Garcia

At the hearing, Laura Magnani from the American Friends Service Committee strongly agreed. Magnani pointed out that only in the third and fourth year does very limited social interaction start to happen, that having contact with one's family continuing to be seen as a privilege instead of a right is fundamentally wrong and that the curricula itself is "blame and shame" based, an

approach proven to be damaging. To add insult to injury, she said that what you write in the notebooks can be used against you.

Marie Levin with the Pelican Bay Hunger Strike Solidarity Coalition spoke about her brother Sitawa N. Jamaa at Pelican Bay, a New Afrikan Short Corridor Collective representative and a political thinker. He told her his concerns about the step down program: “The workbooks are demeaning and inappropriate. No one with a gang label will be reviewed for two years of the program, and no phone calls for two more years is far too long.” He’s concerned about CDCR evaluative power over journals, fearing they won’t allow progression if they don’t like the answers, or that they will accuse people of insincerity.

Sundiata Tate, one of the San Quentin 6 and a member of All of Us or None, said: “In terms of CDC, it seems like they’re trying to put a cover on what they’re actually doing. If you take someone who’s been in the SHU for years or even decades and say they have to go into a step down program that will take four years, that’s really just adding cruelty to cruelty. It’s actually more torture.”

In an attempt to deflect blame from the destructiveness of their own policies, Kelly Harrington, associate director for high security transitional programming, admitted that some people did not want to participate in the step down program. When asked why, he said, “We have intelligence that people are being instructed not to participate in the program by leaders.”

Canales noted that CDCR is trying to cast blame on the leaders, when in reality the program itself forces people to sign a contract agreeing to become an informant.



About 40 people who couldn’t be seated in the hearing room watched in the hallway, the closest thing the capitol could come to an “overflow” room. The activists agreed that prisoners’ families should have first priority for the hearing room. – Photo: Dolores Canales

The contract is arguably the most insidious part of the step down program. In order to complete the program, people would be forced to sign it in Step 5. It includes the stipulation that the signer become an informant on gang – or, in the new language, “security threat group” (STG) – activities, making it in effect no different at all from debriefing and putting the informant in danger of retaliation.

In the CDCR’s defense, there’s one lie they didn’t tell – that they care about people in the SHUs being able to have a supportive relationship with their family members. It’s very clear they don’t. One of the more frightening elements in this expansion disguised as reform for families with loved ones in the SHU is that the new STG classification is no longer for just inside the prisons.

Family members are wondering if they will at some point be “validated” as gang members on the streets. If that happened, they could be barred from visiting or writing to their loved ones in the SHU, even more completely isolating people in solitary confinement and cutting them off from an important source of support in case of hunger strike.

Of watching the CDCR representatives speak at the hearing, Manuel La Fontaine of All of Us or None said it was “so infuriating and very hard to watch. Honestly, it was re-traumatizing for me. Although comparisons can be dangerous, I began to imagine the feelings of a survivor of the holocaust watching the Nazi regime justify their actions.”

Jerry Elster, also of All of Us or None, said: “They pretty much showed who the worst of the worst really are. The guys inside are calling for peace and an end to hostilities between races, and the guys (at CDCR) have complete disregard for human suffering.”

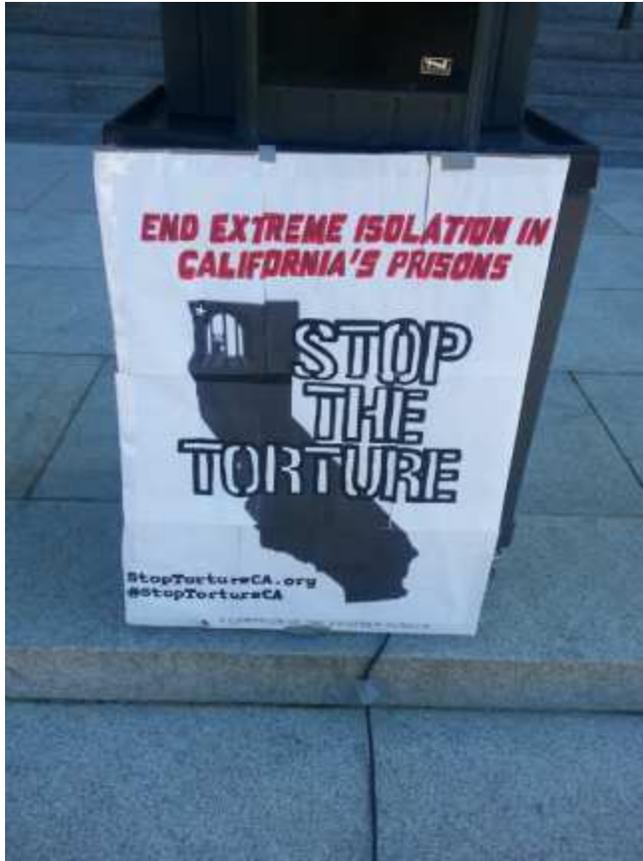
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The most powerful moment of the public comment portion of the hearing came when Cynthia Machado spoke of her late brother Alex. Formerly a bright and articulate man who helped others with legal work, he was driven to suicide after years of paranoia, degrading conditions and mental deterioration. She said: “We received letters from him indicating he was afraid. He reported seeing demons. Although they knew he was allergic to peanuts, they gave him peanut butter to eat.

“He wrote the family a suicide letter in February 2011 and attempted it in June. On Oct. 24, after screaming for 24 hours, he was found hanging in his cell.” Looking at the legislators, she demanded to know, “Where is the rehabilitation in that? Where is it?”

The missing framework of torture

Sundiata Tate said after the hearing that “some of the assembly members asked good questions and the CDC tried to say they were changing. But they aren’t even addressing the question of torture! That really stood out for me. They aren’t recognizing it as such. The only way they will is if their hands are forced, by the courts or the legislature or the people. I really think the CDC should be forced to release all those people and pay them damages.”



“Stop the torture” was the topic around the Capitol during the hearing on Feb. 25 and Lobby Day on Feb. 26. – Photo: Bami Iroko

People imprisoned in the SHUs and those who advocate for them have a deep understanding that solitary confinement is a horrific form of torture with long-lasting and highly detrimental emotional and physical effects and as such needs to be abolished. Their family members also have a bone-deep knowledge of this, feeling keenly as they do the pain that comes when loved ones are suffering unjustly.

In addition, the U.N. Special Rapporteur on Torture, the U.N. Human Rights Committee and Amnesty International, among others, all recognize solitary confinement as a form of torture whose use should be extremely limited if used at all. The U.N. Special Rapporteur has state 15 days should be the maximum.

The U.N. Special Rapporteur on Torture, the U.N. Human Rights Committee and Amnesty International, among others, all recognize solitary confinement as a form of torture whose use should be extremely limited if used at all.

So the question many are left with after the hearing in Sacramento is what will it take for the California legislature to catch up with this knowledge? And, more than that, what will it take for them to act to create some genuine accountability for the CDCR officials who are perpetuating the torture? And to act eventually to abolish the practice?

Lobby Day

The following day around 40 people remained to lobby the legislators in teams, speaking to them about solitary confinement as well as upcoming legislation relevant to organizations within CURB. All of Us or None in particular was supporting AB 218, another version of the Ban the Box bill that would take the “Have you ever committed a felony” checkbox off initial job applications, and AB 149, mandating when people are released from incarceration they be informed of their voting rights and given a voter registration card. Senate bills supported included SB 61, limiting the use of solitary confinement for juveniles, and SB 283, restoring CalWORKS and CalFresh to those released after serving time for drug-related felonies.



Activists from all over California who attended the Feb. 25 hearing on solitary confinement joined with women from the Center for Young Women’s Development who came for lobbying day. Back row: Dolores Canales, Margaret Laffan, Milton Rudge, Marilyn Austin-Smith, Denise Mewbourne, Sundiata Tate, Andrés Abarra, Jerry Elster, Acacia Ainsworth, Elizabeth Evans, Daletha Hayden. Middle row: Sheila Pinkel, Penny Schoner, Margaret Ramos, Kenya Taylor, Paula Robles, Nicole Powell, Keithia Martin, Brittany Jones. Front: Emily Harris, Elvira Zayas, Marlene Sanchez, Diana Zuniga

One of the highlights of the day was the attendance of a group of young women from the Center for Young Women’s Development in San Francisco, an organization working “to empower young women who have been involved with the juvenile justice system and/or underground street economy to create positive change in their lives and communities.” They got their first experience that day of talking to legislators.

At the end of the day many of the teams reported lots of talk around the capital about the hearing the previous day and that many of the legislative aides they had spoken to said they honestly had not known what kind of abuses were happening with solitary confinement in California.

Where do we go from here?

Ammiano has promised there will be more hearings, and Mitchell added she would like to see the next one delve more deeply into conditions inside the SHU. Attorney Carol Strickman from Legal Services for Prisoners with Children informed those at the rally that the class action lawsuit on behalf of those in solitary confinement for longer than 10 years at Pelican Bay – over 500 people – will have a hearing on March 14, 2 p.m., at the Federal Building in Oakland, 1301 Clay St. A rally will begin at 12, and the hearing is at 1:30.

“We need to let the world know that California is torturing their prisoners.”

CDCR will be arguing for a dismissal, and trial dates will be set. She encouraged people to attend if possible, to let them know the interest level of the public



The day after the hearing was Lobby Day. Dolores Canales of California Families to Abolish Solitary Confinement reports: “CFASC had a very productive day lobbying with CURB and bringing up the hearing and the issue of solitary confinement. It was surprising to hear how many legislators were in their offices watching the hearing. Sen. Ron Calderon said they have ‘never seen a hearing like the one yesterday’ and ‘it was the talk of the offices; everyone was talking about it.’ ‘A lot of light was shed.’” – Photo: Sheila Pinkel

Many are calling for an independent review of the gang validation process, used as a rationale to place people in solitary confinement as well as to hold them there indefinitely. La Fontaine said: “This review needs to be placed in more objective hands. Dr. James Austin, for example, is a renowned corrections expert with a more impartial analysis – he would be a better consultant on this.”

To underscore the impossibility of an independent review internal to the CDCR, he said: “The prisons and the military have a lot of shared best practices. There are lots of CDCR goon squads, including the Institutional Gang Investigation guys, who are truly scary people. They’ve been

hired into the system because they have military experience working against international so-called terrorists.”

Regarding further organizing, Marilyn Austin-Smith of All of Us or None said: “I do wish more people were there. It would be great to fill the whole lawn and take over the capitol for one day, so we can make them understand how many people care about this. We need to do community outreach to those most affected and encourage people to come out and support their loved ones. And we need to let the world know that California is torturing their prisoners.”

“What was most inspiring to me was the unity, the way everyone, all ethnicities, came together,” said Canales. “If the men in there have agreed to end hostilities, how can we not do our best to come together out here? As long as we can stay together, we can have victory. It’s especially important for Black and Brown communities to work together more closely around this and realize we do play a part in our own oppression.”

And if the prisoners’ five core demands remain unmet, people still suffering and continuing their resistance inside the SHUs will begin another hunger strike this coming July.

As the NCTT Corcoran SHU writers say in their statement for the event: “Will you allow them to erect this new bureaucracy and extort an ever greater portion of your tax dollars to enrich themselves and expand their influence in your daily lives? If freedom, justice, equality and human rights are truly values you hold dear, let it be reflected in the actions of your legislators. Each of your voices, when raised together, can tumble walls of stone. Remember Jericho. Thank you for your time, and our prayers and solidarity are with you all.”

“What was most inspiring to me was the unity, the way everyone, all ethnicities, came together,” said Canales. “If the men in there have agreed to end hostilities, how can we not do our best to come together out here? As long as we can stay together, we can have victory. It’s especially important for Black and Brown communities to work together more closely around this and realize we do play a part in our own oppression.”

Denise Mewbourne is a proud member of All of Us or None and Occupy 4 Prisoners (O4P) and is currently launching a Human Rights Pen Pal group for O4P, based on the Prisoner Hunger Strike Solidarity Committee’s model. She feels blessed to be part of a passionately dedicated Bay Area community working for racial justice and an end to mass incarceration with all its myriad evils. Denise can be reached at deniselynn777@gmail.com.

[Yogi's Time](#)

Below is the transcript of YOGI'S TIME

YOGI'S TIME

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[Col. Writ. 7/30/06] Copyright '06 Mumia Abu-Jamal

Few of us know the name, Hugo Pinell.

That's because the last time it was in the newspapers was probably in 1971, or 1976, when he was tried as a member of the famous San Quentin Six, six young Black prisoners facing assault charges stemming from battles with prison guards at the notoriously repressive California prison.

Yet that wasn't the beginning, nor the end of things.

Hugo Pinell (known as 'Yogi' by his friends) came to the US as a 12-year old, from a small town on Nicaragua's east coast. If he knew then the hell he would face in America, would he have left the land of his birth?

We'll never know.

He came. And he spent the last *42* years in prison -- 34 of them in solitary! He hasn't had a write-up in 24 years.

Now, his family and lawyer are seeking his parole after a lifetime in some of the most repressive joints in America.

Why so long? Why so many years? The answer, not surprisingly, is politics. Hugo was a student and comrade of the legendary Black Panther Field Marshall, the late George Jackson, with whom he worked to organize other Black prisoners against the racist violence and prison conditions of the '60s and '70s.

Consider this: when Hugo was sent to prison, Lyndon Baines Johnson was president, bombing in the Vietnam War was intensifying, and Martin Luther King, Jr. was still alive!

Of his introduction to the prison system, Yogi would later write:

"In 1964, a white woman accused me of rape, assault and kidnap. I was 19 years old. I turned myself into the authorities to clarify the charges against me which I knew to be falsified. The deputies beat me several times because the alleged victim was white, and the Public Defender and the Judge influenced my mother into believing that I would be sentenced to death unless I pled guilty. At their insistence and despite my innocence, I pled guilty to the charge of rape, with the understanding that I would be eligible for parole after 6 months. When I arrived at the California Department of Corrections, I was informed that I had been sentenced to three years to *life*."

California's notoriously unjust indeterminate sentencing has led, in part, to the present prison overcrowding that now threatens to bankrupt the system. California's prisons are roughly 172% over capacity, and parole is a broken, nonfunctional agency.

That's not just my opinion, but California's state senator, Gloria Romero (D.-Los Angeles) has called the present regime a "failure," particularly the parole system.

Despite California Gov. Arnold Schwarzenegger's 2004 promises of major reforms of the parole system, which would lead to significant prisoner population reductions, the incarceration rate has soared. Today, there are a record 168,000 people in 33 state prisons, nearly double the rated capacity.

As Hugo Pinell seeks parole, California is spending \$7.9 billion -- (yeah--with a 'b'!) in the next fiscal year, an increase of \$600 million a year for a prison system that has one of the worst recidivism rates in the nation (60%).

Clearly, the so-called "Correctional and Rehabilitation" Department has failed in its mission to do both.

Support parole for Hugo Pinell. 42 years is more than enough.

Copyright 2006 Mumia Abu-Jamal

[Mr. Jamal's recent book features a chapter on the remarkable women who helped build and defend the Black Panther Party: *WE WANT FREEDOM: A Life in the Black Panther Party*, from South End Press (<http://www.southendpress.org>); Ph.# 1-800-533-8478.]

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"When a cause comes along and you know in your bones that it is just, yet refuse to defend it--at that moment you begin to die. And I have never seen so many corpses walking around talking about justice." - Mumia Abu-Jamal

MUMIA'S COLUMNS NEED TO BE PUBLISHED AS BROADLY AS POSSIBLE TO INSPIRE PROGRESSIVE MOVEMENT AND HELP CALL ATTENTION TO HIS CASE.

--Mumia is Innocent! Stop the Frame Up! Free Mumia!--

please contact as many publications and information outlets as you possibly can to run Mumia's commentaries (on-line and **especially off-line**)! The only requirements are that you run them *unedited*, with every word including copyright information intact, and send a copy of the publication to Mumia and/or ICFFMAJ. THANK YOU!!!

Keep updated by reading ACTION ALERTS!!

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<http://www.onamove.com/> and their links.

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To download Mp3's of Mumia's commentaries visit
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[Strategies CDCR may use in response to our peaceful protest](#)

by Angel Chavez

I'd like to share a few words with fellow prisoners about possible strategies being considered by CDCR to respond to peaceful protests such as a hunger strike or work stoppage (HS/WS) in July 2013.



California Medical Facility, Vacaville

At CMF (California Medical Facility) in Vacaville, there are four wings that are supposed to be opening due to the transferring of DMH (Department of Mental Health) inmates to Stockton Medical Facility. Those are L, P, S and Q wings, which are empty for the most part.

Staff here say there is a plan to open and fill these wings in July 2013 with “GP” inmates who are Level 3. Why July was picked is not clear but the P, L and S wings are sort of Ad-Seg design with all the extra security features, such as steel window covers, cuff ports, single bunk etc. This may be a way for CDCR to try to spread out prisoners who are protesting by suddenly transferring people and segregating them in these units, which are in fact very segregated.

I'm sure CDCR is anticipating disruptions and likely preparing ways to respond. Prisoners should expect CDCR officials to employ tactics such as possibly cutting power to televisions to prevent us from watching news, stopping and delaying mail delivery and sudden transfers. CDCR has had years to plan for such events such as HS/WS. This is reason why every prison has a MSF (Minimum Support Facility) Level-1 “ranch” for short timers who will do prison critical work should the more aggressive long-term population behind walls suddenly wake up and peacefully protest.

Prisoners should expect CDCR officials to employ tactics such as possibly cutting power to televisions to prevent us from watching news, stopping and delaying mail delivery and sudden transfers.

Every prison with SNY (Sensitive Needs Yard) yards and GP yards saw the transfer of main kitchen jobs to SNY population because CDCR knew that SNY populations were not organized the way GPs were. All critical jobs were given to SNY, in preparation for HS/WS peaceful protests. However, GPs cannot be replaced to eat when we refuse to do so nor can we be forced to double cell if we politely refuse to.

Also of importance to know is that it is the policy and protocol of CDCR to take daily vital sign readings of inmates on HS, including weight, blood pressure, viewing of mouth for signs of dehydration and asking some questions. Should HS participants refuse politely to speak with medical staff when they attempt to take vitals each morning, it would add further pressure on CDCR to meet demands.

CDCR also has a new policy of removing all food, including coffee and drink mixes, for people on HS for the duration of the HS. They must visually inspect your cell and ensure no food is in your cell. So we must be prepared to do without these things for the duration of the HS.

Just be prepared in the short term for CDCR response tactics. They'll be desperately trying to save their sinking ship. But remember this: If the crew of the ship – prisoners – refuse to eat, work and double cell, the officers (CDCR) will be left with a floating ship lost at sea. Eventually nothing will stop the ship from sinking.

In my opinion July is a very good time for these peaceful protests for the following reasons: (1) not much news is being covered in July, which gives us a better shot at mainstream exposure; (2) the CCPOA prison guard union's contract – labor contract – expires in June 2013, which means that the negotiations by Gov. Brown with CCPOA and the issue of HS/WS in CDCR will likely be one big headache for the governor and lawmakers. It's very likely that CCPOA will be in negotiations with the governor through July 2013; (3) budget negotiations are happening in Sacramento in July; (4) the Coleman/Plata courts will be looking at CDCR due to the mess of the inadequate mental health and medical care. The attorneys who represent these class action lawsuits will likely be making some noise.

All the above prison issues may very well put huge pressure on lawmakers and the governor to fix this entire prison mess once and for all. All we need to do is stick to our beliefs and hold on a while longer. You best believe there will be light at the end of tunnel.

Just be prepared in the short term for CDCR response tactics. They'll be desperately trying to save their sinking ship. But remember this: If the crew of the ship – prisoners – refuse to eat, work and double cell, the officers (CDCR) will be left with a floating ship lost at sea. Eventually nothing will stop the ship from sinking.

Send our brother some love and light: Angel Chavez, F52069, CMF, N-305, P.O. Box 2000, Vacaville, CA 95696.

God's Own Warden

If you ever find yourself inside Louisiana's Angola prison, Burl Cain will make sure you find Tweet

▪



Illustrations: Jack Unruh

IT WAS A CHILLY DECEMBER morning when I got to the gates of Angola prison, and I was nervous as I waited to be admitted. To begin with, nothing looked the way it ought to have looked. The entrance, with its little yellow gatehouse and red brick sign, could have marked the gates of one of the smaller national parks. There was a museum with a gift shop, where I perused miniature handcuffs, jars of inmate-made jelly, and mugs that read "Angola: A Gated Community" before moving on to the exhibits, which include Gruesome Gertie, the only electric chair in which a prisoner was executed twice. (It didn't take the first time, possibly because the executioners were visibly drunk.)

Besides being cold and disoriented, I had the well-founded sense of being someplace where I wasn't wanted. Angola welcomes a thousand or more visitors a month, including religious groups, schoolchildren, and tourists taking a side trip from their vacations in plantation country. Under ordinary circumstances, it's possible to drive up to the gate and tour the prison in a state vehicle, accompanied by a staff guide. But for me, it had taken close to two years and the threat of an ACLU lawsuit to get permission to visit the place.



I was studying an exhibit of sawed-off shotguns when I heard someone call my name. It was Cathy Fontenot, the assistant warden in charge of PR. Smartly dressed in a tailored shirt and jeans, a suede jacket, and boots with four-inch heels, she introduced me to a smiling corrections officer ("my bodyguard") and to Pam Laborde, the genial head spokeswoman for the Louisiana department of corrections who had come up from Baton Rouge to help escort me on my hard-won tour of Angola.

Everyone was there except the person I had come to see: Warden Burl Cain, a man with a near-mythical reputation for turning Angola, once known as the bloodiest prison in the South, into a model facility. Among born-again Christians, Cain is revered for delivering hundreds of incarcerated sinners to the Lord—running the nation's largest maximum-security prison, as one evangelical publication put it, "with an iron fist and an even stronger love for Jesus." To Cain's more secular admirers, Angola demonstrates an attractive option for controlling the nation's booming prison population at a time when the notion of rehabilitation has effectively been abandoned.

What I had heard about Cain, and seen in the plentiful footage of him, led me to expect an affable guy—big gut, pale, jowly face, good-old-boy demeanor. Indeed, former Angola inmates say that prisoners who respond to Cain's program of "moral rehabilitation" through Christian redemption are rewarded with privileges, humane treatment, and personal attention. Those who displease him, though, can face harsh punishments. Wilbert Rideau, the award-winning former *Angolite* editor who is probably Angola's most famous ex-con, says when he first arrived at the prison, Cain tried to enlist him as a snitch, then sought to convert him. When that didn't work, Rideau says, his magazine became the target of censorship; he says Cain can be "a bully—harsh, unfair, vindictive."

"Cain was like a king, a sole ruler," Rideau writes in his recent memoir, *In the Place of Justice*. "He enjoyed being a dictator, and regarded himself as a benevolent one." When a group of middle school students visited Angola a few years ago, Cain told them that the inmates were there because they "didn't listen to their parents. They didn't listen to law enforcement. So when they get here, I become their daddy, and they will either listen to me or make their time here very hard."

Cain told some middle schoolers that when inmates get to Angola, "I become their daddy, and they will either listen to me or make their time here very hard."

Another former prisoner, John Thompson—who spent 14 years on death row at Angola before being exonerated by previously concealed evidence—told me that Cain runs Angola "with a Bible in one hand and a sword in the other." And when the chips are down, Thompson said, "he drops the Bible."

Who is the man who wields so much untempered power over so many human beings? I wanted to find out firsthand—but when I requested permission to visit the prison and interview Cain, back in 2009, Fontenot turned me down flat. Cain, she said, was not happy with what I had written about the Angola Three, a trio of inmates who have been in solitary longer than any other prisoners in America. Two years and much legal wrangling later, I was here at Fontenot's invitation, ready to see the Cain miracle for myself.

BURL CAIN HAS FRIENDS IN MANY places—a vast network of contacts and supporters from Baton Rouge to Hollywood. There has been talk in Louisiana of him running for office—maybe even for governor. But no position could ever be so secure, and no authority so complete, as what he already has.

Cain, now 68, was raised in Pitkin (population 1,965), about 90 miles due west of Angola; he began his career at the Louisiana Farm Bureau, then became assistant secretary for agribusiness at the Louisiana Department of Public Safety and Corrections, which runs a number of prison plantations. He became warden of the medium-security Dixon Correctional Institute in 1981 and landed at Angola 14 years later. One official bio notes that "to escape the pressures of running the nation's largest adult male maximum security prison, Cain enjoys hunting and traveling around the country on his motorcycle."

Cain's brother, James David Cain, served in the Louisiana Legislature for more than two decades. Burl Cain himself was until this year the vice chairman of the powerful State Civil Service Commission, which sets pay scales for state workers. Corrections is big business across the nation, but nowhere more so than in Louisiana, which has the highest incarceration rate in the world, keeping 1 in 55 adults behind bars. Angola is one of the largest employers in the state, with a staff of about 1,600 and an annual budget of more than \$120 million; it is also a huge agricultural and industrial enterprise, with a network of customers and suppliers that depend on the warden's good graces.

Until 2008, the department of corrections, which oversees the state's prisons, was headed by Richard Stalder, who once worked for Cain. Today, its second in command is Sheryl Ranatza, who previously was Cain's deputy warden. She is married to Michael Ranatza, executive director of the Louisiana Sheriffs' Association. (The sheriffs have a direct interest in prison policy in Louisiana because the state effectively rents space in local jails—at premium rates—to house "overflow" inmates who can't be fit into Angola and other prisons.) Together, the Angola warden and the department of corrections have long been "a political powerhouse in Louisiana," says the Southern Center for Human Rights' Stephen Bright. "[They are] sitting on top of all this power. Governors who come along are afraid to touch them."

But Cain's reputation has reached far beyond Louisiana. Shortly after taking the reins at Angola, he gained a national audience through a 1998 documentary about the prison, *The Farm*:

Angola, USA, which won the Grand Jury Prize at Sundance and was nominated for an Academy Award. Soon Cain found himself interviewed by an admiring Charlie Rose and profiled in *Time*, which noted his quest to "give the 5,108 hopeless men on this former slave-breeding farm hope." A follow-up to *The Farm* was released in 2009 (PDF), with Cain as the central character.



"Convict Poker" at the Angola Prison Rodeo. Photo: Mike Schreiber Cain has also had an open-door policy for Hollywood. Parts of *Dead Man Walking*, *Out of Sight*, and *Monster's Ball* were filmed on the prison grounds, and more recently, William Hurt spent a night there to prepare for his role as an ex-con from Angola in *The Yellow Handkerchief*. As Fontenot proudly told me, Forest Whitaker recently visited to prep for narrating a two-hour documentary on the prison's hospice for Oprah's new network. Even parts of the recent Jim Carrey film *I Love You Phillip Morris*, about two men who fall in love in prison, were filmed at Angola. "All the extras we were using were lifers, real killers," costar Ewan McGregor bragged. (Cain drew the line, though, according to one Christian blogger, at allowing a gay sex scene to be filmed in the prison.)

WITH CATHY FONTENOT at the wheel, talking a mile a minute, our SUV sped through Angola's expansive grounds. At 18,000 acres, the prison covers a tract of land larger than the island of Manhattan. Surrounded on three sides by the Mississippi River and on the fourth by 20 miles of scrubby, uninhabited woods, it is virtually escape-proof.

With its proximity to the river, this is prime agricultural land, made up of five former plantations and named for the country of origin of the slaves who once worked its fields. Today the prisoners, three-quarters of whom are black (PDF), still work the land by hand, earning between 2 and 20 cents an hour.

Angola's agribusiness operation grows cash crops like cotton, corn, and soybeans, as well as fruits and vegetables. In addition to working the fields, inmates tend to Angola's hundreds of beef cattle, its prize Percherons and quarter horses, and the dogs it breeds for law enforcement. (In addition to raising bloodhounds, the Angola kennels have experimented with crossing German shepherds and black wolves.) Prisoners also make license plates and vinyl mattresses and fashion toys for charity.

The prison rodeo is famed for such events as "Convict Poker," in which four inmates try to remain seated at a card table while being charged by a 2,000-pound bull.

Fontenot crossed one levee after another, rolling off facts and figures and telling little stories about points of interest as we flew past. In 1997, she told me, a flooding Mississippi came close to breaching the ramparts, but they kept the water out with teams of inmates sandbagging, Warden Cain working by their side. We passed a herd of horses, which at Angola are used not only by officers riding guard over prisoners in the fields, but also to pull wagons and plows, replacing gas-guzzling tractors. Angola is working very hard to go green, Fontenot said. It is also highly entrepreneurial, with ventures such as the Prison View Golf Course bringing in extra funds at a time of budget cuts. They were, she said, considering a pet-grooming service and an Angola-branded clothing line. As we zipped down the road, we passed a big tour bus filled with visitors.

We also passed the 10,000-seat arena where Angola's famous prison rodeos are staged each spring and fall, drawing some 70,000 people. The rodeo is famed for such events as "Convict Poker" (in which four inmates try to remain seated around a card table while being charged by a 2,000-pound bull) and "Guts and Glory" (where inmates vie to snatch a poker chip hung around the horns of an angry bull). Daniel Bergner, who spent a year at Angola researching his powerful 1998 book *God of the Rodeo*, observed that the crowd's reaction was "electrified, exhilarated, the thrill of watching men in terror made forgivable because the men were murderers. I'm sure some of it was racist (See that nigger move), some disappointed (that there had been no goring), and some uneasy (with that very disappointment)." Even so, he writes, "many people were not laughing, were too bewildered or stunned by what they had just seen."

Outside the arena, inmates sell arts and crafts, along with crawfish étouffée and Frito pies for the benefit of various inmate organizations: the Lifers Association, the Forgotten Voices Toastmasters group, Camp F Vets, and dozens of Christian groups. The rodeo was originally conjured up by the inmates, but it is now a centerpiece of Cain's PR operation. Bergner wrote that in Cain's first year at Angola, he entered the arena in "the closest thing he could find to a chariot"—a cart pulled by the prison's Percherons, in which he circled the ring before the opening prayer.

One thing I learned when attending the rodeo a year earlier (it was the only way to get into Angola without Fontenot's permission) is the vast difference in the way various groups of inmates live. Most of the men who work the booths are "trusties." They live in open dorms or group houses, hold the most coveted jobs, move around with some degree of ease, and in some cases even have limited contact with the public. A few trusties are trucked out to keep up the grounds at the local school, while others tend to the homes and yards of B-Line, the small town inside the prison gates that is populated by Angola's staff, many of them third- or fourth-generation corrections officers. (Angola officials have military ranks; collectively, they are sometimes still referred to by their historical name, "freemen.")

About 700 of Angola's 5,200 prisoners are trusties. Another 2,800 are "big stripes," who work in the fields and factories under armed supervision. The remaining 1,500 are confined in cellblocks—some in the general population, some in 23-hour-a-day lockdown, some in punishment units. A word from the warden can make the difference between life in a "trusty camp" with a decent job and contact visits, and life in a six-by-nine isolation cell.

A little farther on was the main prison, surrounded by layers of razor wire shining bright in the sun. "Hiya," Fontenot called out to the inmates as our entourage swept down the central walkway. "How ya doin'?" "Good morning," they responded. She put her arm affectionately around the shoulder of one man, asked another about a personal problem. She came off as part country-western princess, part girl next door, and entirely in charge.

By most estimates, including Fontenot's, at least 90 percent of Angola's prisoners will die here. In Louisiana, what are effectively life sentences are now doled out not only for murder, but for anything from gang activity to bank robbery. The *Angolite* has reported that in 1977, just 88 men had spent more than 10 years in the prison. By 2000, 274 men had spent 25 years behind bars, and in 2009, 880 Angola inmates had spent 25 or more years inside. Sixty-four men had been locked up for more than 40 years.

Today, 3,660 men—70 percent of Angola's population—are serving life without parole, and most of the rest have sentences too long to serve in a lifetime. "It is not too far of a stretch to claim life without parole as another form of capital punishment," writes Lane Nelson, the magazine's star writer (who recently received clemency). "[It is] slow execution by incarceration. Decades of segregation can numb a prisoner's soul until he becomes devoid of an earnest desire for the joys of freedom."

Warden Cain has gone on record as favoring the possibility of parole for those who achieve "moral rehabilitation." Nick Trenticosta, a death-penalty attorney who currently represents 15 prisoners at Angola, says, "He knows there are individuals at Angola he believes are rehabilitated, and he believes they should be released. I think he is very frustrated by the

sentencing laws in the state [and] the whole process of pardon and parole because of its political nature."



"Leadbelly in the foreground," reads a notation on this photo by folklorist Alan Lomax, who came to Angola in 1934 to record the blues great. Photo: Library of CongressAs it stands, Cain and his staff confront an aging and increasingly infirm prison population, which is why some of Angola's best-known programs deal with easing old age and death in prison. The prison even operates a hospice, founded and staffed by inmates, that houses men judged to have fewer than 18 months to live. When these men die, if no relatives come to claim the body, they can count on an inmate-crafted coffin, a decent funeral, and delivery, via horse-drawn hearse, to their final resting place at Angola's Point Lookout Cemetery.

FIVE MILES INTO THE PLANTATION, we arrived at death row. A central control room led to a series of tiers, each marked by a locked door and color photos of the inhabitants, 83 in all. Guards patrol the tiers day and night, looking for potential suicides.

We walked past a plastic nativity scene to get to the death house, which contains the cells where inmates spend their final hours, saying goodbye to loved ones and having their last meals. In the death chamber sat a flat, padded leather gurney with "wings" where the condemned man's arms would be outstretched to receive the needle. Fontenot pointed out where Warden Cain would stand, near the man's left hand, and described how he would motion for the execution to begin.

Cain's first execution, he told the *Baptist Press*, was done strictly by the book. "There was a *psshps* from the machine, and then he was gone," Cain recalled. "I felt him go to hell as I held his hand. Then the thought came over me: I just killed that man. I said nothing to him about his soul. I didn't give him a chance to get right with God. What does God think of me? I decided that

night I would never again put someone to death without telling him about his soul and about Jesus."

More than 200 inmates have earned degrees in Christian ministry at the "Bible college," the only route to earning a college diploma at Angola.

By 1996, in a Diane Sawyer special about an Angola execution, Cain said that putting a prisoner to death was "so complex I can't even answer...I came here with an opinion about a lot of things. Today I don't have an opinion about hardly anything."

Attorney Nick Trenticosta says that in his view, Cain treats death-row prisoners better than wardens at most other prisons: "It is not that these guys had super privileges. But Warden Cain was somewhat responsive to not only prisoners, but to their families." Trenticosta recalls Cain demurring before one execution, "All I wanted was the keys to the big house. Not this." The lawyer offers a picture of a man torn between the duty to kill and the faith that makes him question that duty—a dilemma he seeks to resolve, perhaps, by giving prisoners the promise of a heavenly life before the state snuffs out their earthly one.

CHAPELS ARE ALL OVER ANGOLA, and the main one, which seats 800, was a key stop on our tour—just as it is for visiting preachers from around the country. Gathered there waiting for us was a group of inmate preachers, who spread the good news at the five houses of worship in Angola (a sixth is under construction) and at other prisons throughout the state. On occasion, they even have the opportunity to preach in the outside world. I asked the inmates whether Warden Cain had to approve what they did; one said they answered only to "Him" and pointed skyward. For a while, we listened to a former country-western bandleader play gospel on the famed Angola organ, donated by a close associate of Billy Graham. As we began to leave, one preacher raised his hand to Cathy, smiled broadly, and said, "We did good for you."

It had taken me a while to figure out what bothered me about Cain's religious crusade at Angola, beyond a healthy respect for the separation of church and state. My grandfather, a Methodist minister, was an evangelist of sorts, so this wasn't an altogether foreign world to me. And I've seen a lot of good come out of faith-based programs—which, particularly in prison, fill the void created when lawmakers nationwide slashed funding for rehabilitation. In 1994, for example, Congress dealt a crushing blow to prison education by making inmates ineligible for higher-education Pell grants. Prison college programs, which had proved the single most effective tool for reducing recidivism, disappeared almost overnight. In Louisiana today, 1 percent of the corrections budget goes to rehabilitation.

The imbalance "makes no rational sense from a prison management point of view," says the David Fathi, who heads the ACLU's National Prison Project. "But unfortunately it makes

political sense for the next election." As a result, he says, "the religiously inspired programs are pretty much all there is."

According to estimates in the Christian press, some 2,000 of Angola's inmates have been born again since the arrival of Cain—who has described his own religious persuasion as "Bapticostal"—and 203 have earned B.A. degrees in Christian ministry at the "Bible college," an extension program operated by the New Orleans Baptist Theological Seminary that is the only route to earning a college degree at Angola.

Besides the prison seminary, Angola's major religious institution is the Louisiana Prison Chapel Foundation, which has raised at least \$1.2 million to dot the prison's grounds with houses of worship. Franklin Graham, Billy's son, reportedly donated \$200,000 to build one of the chapels, continuing a longstanding relationship with Angola. (Inmates crafted the coffin in which Billy Graham's wife was buried in 2007, and they are building one for Billy himself.)

Franklin Graham wrote about one of his visits to preach at the prison under the title "Freedom for the Captives." It's a phrase drawn from Luke 4:18-19, where Jesus announces that God "has sent Me to proclaim freedom to the captives and recovery of sight to the blind, to set free the oppressed, to proclaim the year of the Lord's favor." It's not hard to see why this would be an appealing message for men who will never again be physically free.

But for my grandfather, personal redemption was inseparable from social justice. Cain's brand of Christianity, in contrast, serves in large part as an instrument of control—and the warden has little patience for those who don't get with his program, including other Christians. In 2009, the ACLU of Louisiana filed suit on behalf of Donald Lee Leger Jr., a practicing Catholic who had sought to take Mass while on death row. He alleged that Cain had TV screens outside his cell turned up full blast and tuned to Baptist Sunday services. Prison officials destroyed a plastic rosary sent to Leger from a nearby diocese. When Leger continued to file grievances requesting Mass, he was moved to a tier of ill-behaved inmates and finally put in the hole for 10 days. The ACLU also represented Norman Sanders (PDF), a member of a Mormon Bible study course, who was denied books from Brigham Young University and Deseret Book Direct, sources of Mormon publications. (Cain told the Christian magazine *World* that other religions are welcome to set up programs at Angola "as long as they're willing to pay for it. Let them all compete to catch the most fish. I'll stand on the bank and watch.")

An attorney representing another prisoner told me that the inmate had been disciplined because he had not bowed his head during prayer. The prisoner also alleged that inmates who don't participate in church services will have their privileges revoked, while those who attend will get "a day or two off from the field, a good meal, and other goodies" such as ice cream. (Some help themselves to further goodies: In a recent scandal, several inmate ministers were investigated for allegedly bribing guards to let them have sex with visitors who came for special banquets.)



Historic photo of Angola

Landing. Photo: Library of Congress Stan Moody, a onetime prison chaplain in Maine who has met with ex-Angola prisoners, believes that "Cain is without question a committed Christian" who "cares about the downtrodden and disadvantaged in a way that's sadly missing in prisons across the US." But he questions pushing religion onto a "literally captive" audience, especially in exchange for better treatment. What Cain seems to be creating at Angola, Moody warns, is an atmosphere of "imposed Christian values" designed to put "notches on the old salvation belt."

With those who resist salvation, Cain takes a somewhat different approach—as the men known as the Angola Three found out. When they came to Angola in 1971 for armed robbery, Herman Wallace and Albert Woodfox were Black Panthers, and they began organizing to improve prison conditions. That quickly landed them on the wrong side of the prison administration, and in 1972 they were prosecuted and convicted for the murder of a prison guard. They have been fighting the conviction ever since, pointing out (PDF) that one of the eyewitnesses was legally blind, and the other was a known prison snitch who was rewarded for his testimony.

After the murder, the two—along with a third inmate named Robert King—were put in solitary, and Woodfox and Wallace have now spent nearly four decades in the hole—something Cain has suggested has more to do with their politics than with their crimes (King was released in 2001 when his conviction in a separate prison murder was overturned). In a 2008 deposition, he said Woodfox "wants to demonstrate. He wants to organize. He wants to be defiant...He is still trying to practice Black Pantherism, and I still would not want him walking around my prison because he would organize the young new inmates. I would have me all kind of problems, more than I could stand, and I would have the blacks chasing after them."

Wallace's and Woodfox's lawyers have pointed out that the two men, now in their sixties, have had a near-perfect record for more than 20 years. In response, Cain argued that "it's not a matter of write-ups. It's a matter of attitude and what you are...Albert Woodfox and Herman Wallace is locked in time with that Black Panther revolutionary actions they were doing way back when...And from that, there's been no rehabilitation." Wallace has said that Cain suggested that he and Woodfox could be released into the general population if they renounced their political views and embraced Jesus.

I asked Fontenot about the Angola Three, and she told me matter-of-factly that they just hadn't played by the rules. Anyway, Wallace and Woodfox had recently been shipped off to other prisons in the state system. I asked about solitary confinement. The prisoners in what Angola calls "closed cells" had everything they needed, she said. It was like having a little apartment.

THE ANGOLA THREE ARE NOT the only inmates who claim they have suffered under Cain. Back in 1999, a group of five inmates took two guards hostage and killed one of them during an attempted prison break. Both then-Corrections Secretary Richard Stalder and Warden Cain came to the scene, and after learning of the guard's death, Cain, according to news reports, sent in a tactical team that killed one inmate and wounded another. Nine years later, as the state prepared to try five prisoners for the guard's murder, 25 inmates who were not involved in the escape attempt testified to what happened next.

The prisoners in "closed cells" had everything they needed, assistant warden Fontenot said. It was like having a little apartment.

Transcripts of their pretrial statements suggest that as prison officials tried to extract information or confessions, Angola became what one attorney described as "Abu Ghraib on the Mississippi." Prisoners told of being beaten with fists, batons, bats, sticks, and metal rods. "You've got these grown men crying," one said. Several inmates said they were thrown naked and without bedding into freezing solitary-confinement cells, denied medical care, and threatened with death if they refused to sign statements that had been prepared for them. The events prompted an FBI investigation, and the state of Louisiana eventually agreed to settle with 13 inmates who filed civil rights lawsuits. But there was no admission of guilt, and no reprimand for Warden Cain.

Even in normal times, Angola maintains a punishment unit known as Camp J, which combines extreme isolation and deprivation—prisoners cannot have any personal items and are fed a block of ground-up scraps known as "the loaf"—and is plagued by suicide attempts. There are "things that the mind can't handle," one former inmate told me. "I guarantee you that today, somebody tried [suicide] in Camp J."

Certain accusations against Cain go beyond his treatment of prisoners. Shortly after he took over as warden, in 1995, he was implicated in a scandal involving a company that used Angola prison labor to relabel damaged or outdated cans of milk and tomato paste. There were allegations of kickbacks, and of retaliation against a prisoner who wrote letters to federal health officials. Both Cain and Corrections Secretary Stalder were held in contempt of court (PDF) for withholding documents, and Cain was warned to stop harassing the whistleblower.

In another episode, the *Baton Rouge Advocate* reported that in 2007 a grand jury in Baton Rouge subpoenaed documents involving the prison's various businesses, as well as the Angola State Prison Museum Foundation (headed by Sheryl Ranatza, the Cain protégé who is now deputy secretary at the department of corrections) and the Angola Prison Rodeo, whose proceeds were once put into a fund for prisoner expenses such as funeral trips, TV, and the law library, but are now used to maintain the arena and build prison chapels. Cain is chairman of the committee that runs the rodeo, and he founded and sits on the board of the prison chapel foundation.

The FBI also has been investigating Prison Enterprises, the state outfit that runs all farming and industrial operations in Louisiana's prisons, a probe that has led to several indictments; last October, a contractor named Wallace "Gene" Fletcher pled guilty to defrauding Louisiana taxpayers of some \$170,000.

In 2004, Angola Rodeo producer Dan Klein went to the FBI with a complaint that Burl Cain had forced him to contribute \$1,000 to the Chapel Fund. Cain said at the time that Klein made the contribution without any pressuring, and the warden himself has not been named in any of the indictments.

Daniel Bergner also says he was pressured to pitch in for one of Cain's pet projects while writing his book on Angola: Though he initially had broad access to the prison, partway through his reporting Cain asked him to help pay for a new barn for his wife's dressage horses, which he said would cost about \$50,000. When Bergner demurred, Cain made a straight pitch: In return for arranging a "consultancy" payment for Cain, Bergner would get continued access. Bergner refused, whereupon Cain began demanding editorial control over the book and finally barred Bergner from the prison. Bergner only got access again after going to court.

AFTER MORE THAN A YEAR of trying to get into Angola, I too turned to a lawsuit. In March 2010, the ACLU agreed to represent me on a First Amendment claim arguing that to keep government information from a reporter merely on the basis of what he's written is an infringement on press freedom. My attorneys asked for a listing of visitors the prison had welcomed in the previous year (not counting the everyday tourists). Without hesitation, Angola provided a 14-page list that included Miss Louisiana, the comedian Russell Brand, the Dixie Dazzle Dolls (a children's beauty pageant group), various groups of high school and college

students, judges, representatives from gospel groups and film teams, scouts looking for film locations, criminal justice students, a former member of the Colombo crime family, a French attorney. Members of the media included a journalist from Switzerland; "Neal Moore, citizen journalist, who was canoeing the Mississippi River"; and a producer getting ready to film a "future movie/documentary on finding happiness." My attorneys dispatched one more letter to Cain urging him to grant me a visit. There was no response. But a month later, as the ACLU prepared to file suit in federal court, Fontenot wrote to them, inviting me down for a tour.



Aerial view of Angola prison, 1998. Photo: USGS In his memoir, Wilbert Rideau writes about how tightly Cain controls his messaging—a practice that had grim consequences for the *Angolite*, once known for its investigative reporting. At a time when even outside journalists encountered increasing barriers to access at prisons nationwide—it's almost impossible now to interview an inmate, or even a staffer, at many state and federal prisons—the *Angolite* staffers found their calls monitored and their stories censored. "The only information coming out of Angola," Rideau says, "was what Burl Cain wanted the public to know."

When I asked Fontenot about this, she shook her head and told me that after he started winning journalism prizes and drawing attention from outside Angola, Rideau withdrew from prison life, spending all his time holed up in the *Angolite* offices. His celebrity, she thought, had gone to his head.

Or perhaps Rideau got on the wrong side of Cain by refusing to embrace the dominant story of the warden as Angola's savior, a narrative neatly summed up by prison chaplain Robert Toney in congressional testimony in 2005: Angola "was once the most violent prison in America. Today,

we are known as the safest prison in America. This change began with a warden that believed that change could occur."

In fact, there is considerable evidence that the turnaround at Angola began two decades before Cain became warden, in the 1970s, when a prisoner lawsuit forced the facility into federal oversight and a series of reforms began. According to Burk Foster, a professor of criminal justice at Saginaw Valley State University in Michigan and the leading historian of Angola, by the mid-1980s Angola was already the most secure prison in the South. Prison violence is down dramatically across the country; the prison murder rate has fallen more than 90 percent (PDF) nationwide in the last three decades.

Yet the legend of Cain persists—and not just because Cain and his team (the formidable Cathy Fontenot included) are so skilled at PR. Cain does a job that no one else much wants to do, dealing with a group of people that no one else much wants to think about. Rather than face that reality, most of us prefer to believe in a miracle.

ASIDE FROM THE HIGH-LEVEL escort, my tour of Angola had covered pretty much what the tourists see, except for the closing lunch—Fontenot took me to the Ranch House, a sort of clubhouse where the wardens and other officials get together in a convivial atmosphere for chow prepared by inmate cooks. (It's traditional for Ranch House cooks to go on and work at the governor's mansion, but Gov. Bobby Jindal had spurned that tradition.) The house is built low, with a long porch and white board fence; we sat down to barbecue chicken, red beans and rice, and sweet potato pie, all of it quite good.

After lunch, I accompanied Fontenot to her office in the administration building. When we'd scheduled the tour, she'd promised me an interview with Cain provided he was at Angola when I visited, which she expected him to be. But when I asked, "Where's the warden?" she said matter-of-factly, "Oh, he's in Atlanta today."

On the way back over the line to the free world, I asked Fontenot whether the warden might consider talking to me on the phone. She suggested I follow up once I got home, and I did, thanking her for the tour and the fine luncheon. After several weeks and multiple inquiries—including a few questions submitted via email, at her request—I got this reply:

The warden respectfully declines to participate in this article. As he says often, its all of us at Angola that have caused the positive changes. Thanks again James. It really was a pleasure to meet you in person. Stay warm during these cold days of winter.

When I interviewed John Thompson, the exonerated death-row inmate, about his time in Angola, he mentioned what he believes is one of the public's biggest misconceptions about prisons. Most people look at the fence around the perimeter and think its purpose is to keep prisoners from escaping. But the barrier "isn't there to keep prisoners in," Thompson said. "It's to keep the rest of you out."

36 Years of Solitude

Why is Bobby Jindal's administration determined to keep Albert Woodfox in permanent lockdown?

—By James Ridgeway



Photo by Adam Shemper

What's left of Albert Woodfox's life now lies in the hands of a federal appeals court in New Orleans. By the time the court hears his case on Tuesday, the 62-year-old will have spent 36 years, 2 months, and 24 days in a 6-by-9-foot cell at the Louisiana State Penitentiary in Angola. An 18,000-acre complex that still resembles the slave plantation it once was, the notorious prison, immortalized in the film *Dead Man Walking*, has long been considered one of the most brutal in America, a place where rape, abuse, and violence have been commonplace. With the exception of a few brief months last year, Woodfox has served nearly all of his time there in solitary confinement, out of contact with other prisoners, and locked in his cell 23 hours a day. By most estimates, he and his codefendant, Herman Wallace, have spent more time in solitary than any other inmates in US history.

Woodfox and Wallace are members of a triad known as the "Angola 3"—three prisoners who spent decades in solitary confinement after being accused of prison murders and convicted on questionable evidence. Before they were isolated from other inmates, the trio, which included a

prisoner named Robert King, had organized against conditions in what was considered "the bloodiest prison in America." Their supporters believe that their activism, along with their ties to the Black Panther Party, motivated prison officials to scapegoat the inmates.*

Over the years, human rights activists worldwide have rallied around the Angola 3, pointing to them as victims of a flawed and corrupt justice system. Though King managed to win his release in 2001, after his conviction was overturned, Woodfox and Wallace haven't been so lucky. Amnesty International has called their continued isolation "cruel, inhuman, and degrading," charging that their treatment has "breached international treaties which the USA has ratified, including the International Covenant on Civil and Political Rights and the Convention against Torture." Rep. John Conyers (D-Mich.), chair of the House Judiciary Committee, has taken a keen interest in the case and traveled to Angola last spring to visit with Woodfox and Wallace. "This is the only place in North America that people have been incarcerated like this for 36 years," he told *Mother Jones*.

Meanwhile, the prevailing powers in Louisiana, from Angola's warden to the state's attorney general, are bent on keeping Woodfox and Wallace right where they are. The state's Republican governor, Bobby Jindal, has thus far steered clear of the controversial case. Conyers, though, who has spoken with Jindal about Woodfox and Wallace, says the governor seemed "open-minded."

For his part, Conyers is optimistic that Woodfox's fortunes, at least, could soon change. On Tuesday, Nick Trenticosta, who is one of Woodfox's lawyers, will have 20 minutes to convince the 5th Circuit Court of Appeals to uphold the decision of a district court judge in Baton Rouge, who last July overturned Woodfox's conviction for the 1972 murder of an Angola prison guard. The murder, for which Wallace was also charged, occurred while Woodfox was already serving a sentence for armed robbery. Trenticosta, a longtime Louisiana death penalty attorney who heads the New Orleans-based Center for Equal Justice, will argue that his client received inadequate representation from his court-appointed attorneys when he was retried in 1998, as well as during his original trial in 1973. Better lawyers, he'll argue, would have shown that Woodfox's conviction was quite literally bought by the state, which based its case on jailhouse informants who were rewarded for their testimony. The primary eyewitness to the murder received special privileges and the promise of a pardon. One of the corroborating witnesses was legally blind, while another was on the anti-psychotic drug Thorazine; both were subsequently granted furloughs.

Woodfox's lawyers will also make the case that the state failed to provide his previous defense attorneys with crucial information about the witnesses—ensuring that they were unable to cross-examine them effectively—and lost physical evidence, which was inconclusive at best, and possibly favorable to the defendant. (A spokeswoman for the Louisiana State Penitentiary said the prison, as a matter of policy, would not comment on an ongoing case.)

Depending on how the appeals court decides, Woodfox may get a chance at another trial, where this time he'll be represented by a team of highly skilled lawyers. If given that opportunity, Tenticosta told *Mother Jones* in a recent interview, he and his colleagues will go beyond just refuting the evidence that led to their client's conviction. They intend to reveal the identities of the real murderers of prison guard Brent Miller, who, Tenticosta says, are now dead. He says his team has "numerous witnesses who saw" the murder and others "who have good information." (Asked for the names of the witnesses and others with specific knowledge of the murder, Tenticosta said he would reveal their identities only if there is another trial.) Of Woodfox and Wallace, Tenticosta says, "They were targeted. They were set up." The lawyer believes the state of Louisiana is determined to prevent Woodfox from being retried in order to "cover up a coverup."

The state's case against overturning Woodfox's conviction will be argued by Kyle Duncan, a University of Mississippi law school professor who is an admirer of the jurisprudence of Supreme Court Justice Antonin Scalia. He will likely take the usual position in these types of cases, arguing that Woodfox's previous defense attorneys, despite what Tenticosta might say, had every opportunity to cross-examine the witnesses, so no new trial is warranted. But Duncan is little more than a mouthpiece; the force behind the state's appeal is Louisiana attorney general James "Buddy" Caldwell Jr. The former prosecutor, who moonlights as an Elvis impersonator, is a politically ambitious Democrat. Since his election in 2007, Caldwell has fought efforts by Woodfox and Wallace to overturn their convictions. After Woodfox's conviction was overturned last year, Caldwell declared, "We will appeal this decision to the 5th Circuit. If the ruling is upheld there I will not stop and we will take this case as high as we have to. I will retry this case myself...I oppose letting him out with every fiber of my being because this is a very dangerous man."

Caldwell shares this position with Angola's warden, Burl Cain, a devout Baptist who has a reputation for proselytizing to the inmates under his watch. Cain, who has likened the Black Panthers to the KKK, is adamant that the aging Woodfox is and always will be a menace to society by virtue of his political beliefs. He has said that Woodfox is "locked in time with that Black Panther revolutionary actions they were doing way back when...And from that, there's been no rehabilitation."

After a three-judge appellate panel hears arguments on March 3, it will be at least six weeks, and possibly many months, before it rules on the appeal. If it concurs with the district court's decision, Woodfox will be retried or released. If it overrules the lower court, his conviction will remain in place, and his defense team will have to go back to the drawing board.

Albert Woodfox's journey to the East Courtroom of the 5th Circuit Court of Appeals began 40 years ago, when he was convicted of armed robbery at age 21 and sentenced to 50 years of

hard labor. After being transferred from New Orleans to Angola in 1971, Woodfox met Herman Wallace and Robert King.

In the early 1970s, Angola—which spans an area the size of Manhattan and is 30 miles from the nearest town—was a lawless, dangerous hellhole. The all-white corrections officers, who were called "freemen," lived with their families in their own community on the prison grounds, with inmate-servants they called "house boys." There were just 300 freemen to control an inmate population of more than 3,000—but they were backed by hundreds of so-called "trustees," supposedly trustworthy convict guards, who were known to abuse other prisoners. In his just-published autobiography, *From the Bottom of the Heap*, Robert King, who was released in 2001 after proving that he'd been wrongfully convicted of the murder of a fellow Angola inmate, says prison guards stripped prisoners, shaved their heads, and made them run a gauntlet of bats and clubs; incoming prisoners, known as "fresh fishes," were sold as sex slaves. According to records kept by the prison's famous newspaper, *The Angolite*, there were 82 stabbings in 1971, 52 in 1972, and 137 in 1973. (The paper's longtime editor, Wilbert Rideau, won the prestigious George Polk Award for his journalism while still in prison.)

In his book, King describes the tinderbox atmosphere at Angola when he arrived in 1971. That August, prisoners had organized a hunger strike to demand an end to the inmate-guard system, sexual enslavement, racial segregation, and 16-hour workdays. King sensed a mood of defiance among the prisoners and learned that Wallace and Woodfox were "teaching unity amongst the inmates, establishing the only recognized prison chapter of the Black Panther party in the nation." He joined Wallace and Woodfox in organizing the prison population to advocate for better living conditions.

It was in this volatile environment that Brent Miller, a 23-year-old corrections officer born and raised in Angola's staff community, was stabbed to death in a prison dormitory on the morning of April 17, 1972. About 200 prisoners—every one of them black—were rounded up and interrogated. Billy Wayne Sinclair, a white inmate who was on Angola's death row at the time (he was eventually freed), later told NPR: "You heard hollering and screaming and the bodies being slammed against the walls. Upstairs you could smell tear-gas bombs...We heard the beatings that were going on for weeks after that." Two days after the murder, an elderly prisoner named Hezekiah Brown came forward, reportedly telling investigators that he had witnessed the stabbing being carried out by Woodfox and Wallace, along with two other inmates. Based on his statements, the local sheriff filed charges against the men he had named.

Brown was the state's key witness against Woodfox in his 1973 trial. A magistrate judge who reviewed Woodfox's case wrote last summer that Brown's testimony was "so critical to [the prosecution's] case that without it there would probably be no case." After a federal court overturned Woodfox's conviction, he was given another trial in 1998, where Brown's account again figured heavily. At that point, Brown had been dead for two years, but his testimony—

without defense objection—was read into the record. In his 1973 testimony, Brown admitted that he had at first said he was not in the dormitory when the murder happened, but then decided to tell "the truth." According to Brown, the truth was that on the morning of the murder Miller stopped by his bed for coffee, as he often did, and while he was sitting on Brown's bed, the four men came into the dorm and began stabbing him. (NPR, which did a three-part series on the case last year, interviewed a former Angola inmate who said he was with Woodfox in the prison mess at the time of the murder.)

According to evidence presented at Woodfox's 1998 trial, Brown was rewarded for his testimony in numerous ways: He was moved to a minimum-security area, where he lived in a house, luxurious by prison standards, and was provided with a carton of cigarettes a week. And a month after the 1973 trial, then-warden Murray Henderson began writing letters to state officials seeking a pardon for Brown, which cited his testimony against Miller's alleged murderers. During Woodfox's 1998 retrial, Henderson acknowledged that he promised Brown a pardon in exchange for his help "cracking the case." It took years, but Brown, a serial rapist serving life without parole, was released in 1986.

A second key witness was an inmate named Paul Fobb, who said he saw Woodfox leaving the dormitory after the murder. Fobb, who was legally blind, was also dead in 1998, and his earlier testimony, like Brown's, was read into the record without objection by Woodfox's lawyers. Fobb, who had been convicted of multiple rapes, was granted a medical furlough shortly after testifying, and left Angola.

A third prosecution witness, Joseph Richey, claimed that he saw Woodfox and others exiting the dorm, and on going inside saw Miller's body. At first he said he thought the inmates were going for help, but after a meeting at the attorney general's office, Richey changed his statement. He later confirmed being on Thorazine at the time of his testimony, and said he had told the attorney general's office as much. This information was not given to Woodfox's defense lawyers in either trial, nor were the juries made aware. Richey was subsequently transferred from Angola to a minimum-security state police barracks, and went on to work as a butler at the Louisiana governor's mansion. He was even provided the use of state police cars. While supposedly under the watch of the state police, Richey robbed three banks.

Yet another supposed witness, Chester Jackson, never testified at Woodfox's 1973 trial. Yet in 1998, his statements to investigators were mentioned by prison officials testifying for the prosecution, with only belated objections by the defense that this was hearsay evidence.

Then there was the physical evidence: a homemade knife that couldn't be linked to any of the accused; a bloody fingerprint that likewise matched none of the men Brown had implicated; and flecks of human blood on Woodfox's shirt (which he denies he was wearing that day). The bloodstained shirt was lost before the 1998 trial—and before it could be tested for DNA.

In 1973, Woodfox was convicted of Miller's murder in a matter of hours by an all-white jury. Wallace was convicted just as quickly in a separate trial. It took more than two decades of appeals, but Woodfox finally won a new trial on the basis of "ineffective assistance of counsel"—poor lawyering. Yet the 1998 trial not only failed to reveal earlier miscarriages of justice, but also introduced one of its own: One member of the grand jury that reindicted Woodfox was Anne Butler, ex-wife of former Angola warden Murray Henderson, who had led the investigation of the murder in 1973. She was kept on the jury even after revealing her identity to the district attorney, and despite the fact that she had written about Miller's murder—and her belief that Woodfox and Wallace were guilty—in the 1992 book she coauthored with Henderson, *Dying to Tell*, which she reportedly passed around for other jurors to read.

Woodfox began working to secure himself a third trial almost immediately after his second. But a lifeline came to him via another member of the Angola 3, Robert King. Convicted of a separate prison murder and placed in solitary for decades, King ultimately won his release with the help of Chris Aberle, a former 5th Circuit staff attorney who had been assigned to represent him in his appeal. King was convinced that, like himself, Woodfox and Wallace were "victims of frame-up and racism," he said in a recent interview. He asked Aberle to help them as well, and the lawyer agreed. In 2006, Aberle filed a habeas corpus petition on Woodfox's behalf with the Federal District Court for the Middle District of Louisiana.

With Aberle and a team of new lawyers fighting for them, King speaking out on their behalf, and a growing support movement, it looked as if 2008 would be a turning point for Woodfox and Wallace. In March, they were moved for the first time in 35 years from solitary to a maximum-security dormitory with other prisoners. The move followed Rep. John Conyers' visit to Angola and was spurred by a civil lawsuit initiated by the ACLU and carried forward under the leadership of noted death penalty attorney George Kendall, who argued that the Angola 3's decades-long confinement in solitary violated the constitutional ban on cruel and unusual punishment. (The case is ongoing.)

Then, in June 2008, a federal magistrate judge named Christine Noland issued a 70-page report in response to Woodfox's habeas petition. The report recommended that Woodfox's 1998 conviction be overturned, based on the deficiencies in his defense counsel. It also pointed to the weakness of the state's case:

At the most, the Court sees a case supported largely by one eyewitness [Brown] of questionable credibility...two corroborating witnesses, Richey and Fobb, both of whom, according to other evidence submitted with Woodfox's petition, provided trial testimony which was materially different from their written statements given just after the murder, and one of whom's

testimony (Fobb's) could have been discredited by expert evidence; and no physical evidence definitively linking Woodfox to the crime.

Because, in the Court's view, the State's case did not have "overwhelming" record support, confidence in the outcome is more susceptible to and is undermined by defense counsel's errors...and as a result, Woodfox is entitled to the habeas relief he seeks—that his conviction and life sentence for the second-degree murder of Miller be reversed and vacated.

A month later, in July 2008, federal district court Judge James Brady affirmed Noland's findings and issued a ruling overturning Woodfox's conviction. In November, he ordered Woodfox to be released on bail pending a new trial. "Mr. Woodfox today is not the Mr. Woodfox of 1973," Brady wrote in his ruling. "Today he is a frail, sickly, middle-aged man who has had an exemplary conduct record for over the last 20 years."

Buddy Caldwell, Louisiana's attorney general, would have none of it. He appealed Brady's decision, then moved swiftly to mount an emergency motion to block Woodfox's release. "We're...not going to let them get away with that kind of thing," Caldwell told the press. (Caldwell declined to comment for this story.)

Woodfox's release was contingent upon him finding a place to live. His niece, who lived in a gated community outside New Orleans, offered to take him in. But an attorney in Caldwell's office emailed the neighborhood association to warn that a cold-blooded murderer was about to be released into their midst. Woodfox's niece reported that her neighbors stopped waving to her family and cars began circling past her house, sometimes stopping. "We became afraid for our children," she said. While his lawyers worked to secure other living arrangements, the court decided to grant the state's emergency motion, declaring that Woodfox would have to remain in custody pending his appeal.

Caldwell has shown a similar determination when it comes to Wallace, who is pursuing his case through state courts, backed by the same legal team. In 2006 a state judicial commissioner issued a report similar in many ways to Christine Noland's, recommending that Wallace's conviction be overturned based largely on questions about Hezekiah Brown's testimony. But the recommendation was subsequently dismissed by both the district court and its appellate court. Wallace has taken his appeal to the Louisiana Supreme Court, where his case is pending.

Caldwell's fixation on keeping Wallace and Woodfox locked up mystifies some observers of the case. But in addition to any political motives he may have, Woodfox's lawyer, Nick Trenticosta, suggests, Caldwell may be seeking to protect the reputation of one of his closest associates and childhood friends, John Siquefield.

As the district attorney who prosecuted the 1973 case against Woodfox, Siquefield stands to be tainted by revelations that the state's key witnesses were compromised—and that he failed to provide key information to the defense team. Magistrate Judge Noland has already criticized Siquefield's behavior in Woodfox's 1998 trial, where he was called as a witness. After Brown's testimony had been read into the record, Siquefield, who's now the chief assistant district attorney for East Baton Rouge Parish, took the stand to describe the dead witness' delivery of his original testimony. Brown, said Siquefield, had "testified in a good, strong voice, he was very open, he was very spontaneous, he answered questions quickly, and he was very fact specific." He also declared, "I was proud of the way he testified. I thought it took a lot of courage."

In her report, Noland pointed out that Siquefield's testimony was highly unorthodox. She noted that "a prosecutor's statements suggesting that he has personal knowledge of a witness's credibility" meets the Supreme Court's criteria for "egregious prosecutorial misconduct."

Caldwell, for his part, has made clear that he will go to great lengths to keep Woodfox and Wallace in prison, and preferably in solitary confinement (where both men were returned after their brief respite last year). If need be, he says, he will personally prosecute Woodfox for a third time for the Miller murder. And if at any point it looks as if Woodfox will be returned to society—whether on bail or through exoneration—Caldwell has said he intends to launch a prosecution on what he claims are several 40-year-old charges of rape and robbery for which the prisoner was never prosecuted.

Good luck, says Aberle, who notes that Caldwell is referring to an arrest record from the '60s. Such charges were then commonly used to hold black men, he says, but seldom stuck because they had literally been pulled off a list of existing unsolved rape cases. "Nothing ever happened with any of them," Aberle says. Caldwell, he adds, "would have to make a case with witnesses he couldn't come up with 40 years ago."

After Caldwell, the man who appears most determined to keep Woodfox and Wallace behind bars, is Angola's current warden, Burl Cain. Known for his prison evangelizing, Cain has set up chapels around the grounds and a host of Bible study classes and other religious activities for prisoners. As described in a glowing 2008 article in the *Baptist Press*:

Once called the bloodiest prison in America, the Louisiana State Prison at Angola now has a new reputation as a place of hope for more than 5,000 inmates who live out their life sentences without parole. Many inmates know they'll leave the prison walls only when they die, yet despite their circumstances, there is joy in their hearts.

Credit for this unprecedented transformation is given to its one-of-a-kind warden, Burl Cain, who governs the massive prison on the Mississippi River delta with an iron fist and an even stronger love for Jesus.

The article notes Cain's special dedication to delivering souls from the death chamber into the hands of Christ. When he supervised his first execution as warden, Cain said, "I didn't share Jesus" with the condemned man, and as he received the lethal injection, "I felt him go to hell as I held his hand." As Cain tells it, "I decided that night I would never again put someone to death without telling him about his soul and about Jesus." Cain believes that there is only one path toward rehabilitation, and it runs through Christian redemption. According to Wallace, Cain has at least once offered to release him and Woodfox from solitary if they renounced their political beliefs and accepted Christ as their savior.

If Cain did indeed make that offer, that's the extent of the mercy he's willing to show the men. "They chose a life of crime," he has said. "Every choice they made is theirs. They're crybabies crying about it. What they ought to do is look in the mirror and quit looking out." The appeals panel that reviewed Woodfox's grant of bail relied heavily on Cain's statements in deciding to keep the prisoner in custody. According to the court's stay of release, "The only testimony on whether Woodfox poses a threat of danger was the deposition of Warden Cain, who testified about his impressions of Woodfox's character and Woodfox's disciplinary record while in prison. The Warden stated his belief that Woodfox has not been rehabilitated and still poses a threat of violence to others."

In his deposition, Cain provided numerous examples of Woodfox's rule breaking: Prison guards, he reported, had discovered five pages of "pornography" in the prisoner's cell, which, Cain went on to say, "we believe can cause inmates to become predators on other inmates, because they see—the sexual thing arouses them. And so they're in an environment where there are no females, there is no sexual gratification other than whatever you can create yourself, and then what happens is...it causes homosexuality...and is counterproductive to moral rehabilitation." On another occasion, Woodfox was found "hollering and shaking the bars on his cell," a "very serious" offense, Cain said, because the inmate was "absolutely being defiant," behavior that could cause other inmates to "rack the bars" and even "cause a riot." Cain rattled off more charges against the man he called a "predator," ranging from throwing feces at other prisoners to threatening a hunger strike. Cain said that Woodfox had made a "telescopic" pole of compressed paper that could be used as a spear or a blowgun. Woodfox had also been found with an empty Clorox bottle, something escaping prisoners used as "flotation devices," according to Cain, when making their getaways down the nearby Mississippi River. The majority of these violations—25 of them over 36 years—had occurred more than 20 years earlier.

Cain has made clear that one of the reasons he thinks Woodfox and Wallace are dangerous is his belief that the prisoners are moles for the Black Panthers, who might take the opportunity to start a revolution in the prison if they are released from solitary. If they're let out of prison altogether, Cain suggests, they will take their militant agenda to the streets. In his deposition, he stated that Robert King is "only waiting, in my opinion, for them to get out so they can reunite."

"Reunited for what reason?" asked Nick Trenticosta.

"Because he passes out little cookies with the panther on them," Cain said, apparently referring to the logo of King's homemade candy business. (King began making pralines—which he now dubs "freelines"—while still in Angola, using a makeshift stove fashioned out of soda cans and fueled by toilet paper.) "If he passed out those cookies with KKK on them, it would be no different to me. He would be guilty. If you build your life on hatred and you're hung up back 20 or 30 years ago, and we have moved onto society past that, you can't go back reliving in the public. You're dangerous...You can keep until the cows come home; I'm never going to tell you he's not violent and dangerous, in my opinion. I just can't do it."

Asked by Trenticosta to assume, for a moment, that Woodfox was not guilty of killing Miller, Cain insisted that his treatment of the prisoner would remain unchanged.

"I would still keep him in CCR [solitary confinement]," he said. "I still know that he is still trying to practice Black Pantherism, and I still would not want him walking around my prison because he would organize the young new inmates. I would have me all kind of problems, more than I could stand, and I would have the blacks chasing after them [Woodfox and Wallace]...He has to stay in a cell while he is at Angola."

Asked to define "Black Pantherism," Cain replied, "I have no idea. I have never been one. I know they hold their fists up, and I know that I read about them, and they advocated violence...Maybe they are nice good people, but he is not."

When Trenticosta pressed him on why Woodfox was dangerous, Cain grew angry. "What can I say? He's bad. He's dangerous. I believe it. He will hurt you...They better not let him out of prison."

**Among the activists who have taken up the cause of the Angola 3 were Anita Roddick, the late founder of the Body Shop (who was also a Mother Jones board member) and her husband, Gordon. The Roddicks' family charity, the Roddick Foundation, contributed funding for this story.*

Solitary Confinement: A Brief History

From Quaker logic to America's first electric chair, a quick tour of prisons past.

—By Brooke Shelby Biggs



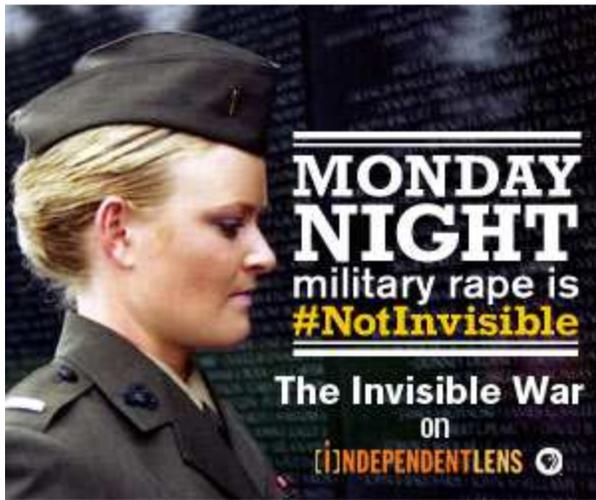
Photo by Adam Shemper

Prisons were a relatively new concept in the early 1800s. Punishment for crimes had been a matter for communities until then. Some took the Hammurabian approach of an eye for an eye, and public hangings in town squares were the price for murder, rape, or even horse thievery. As a more nuanced judicial system evolved, civic leaders sought a more civilized method of punishment, and even began entertaining the idea of rehabilitation.

In 1790, Walnut Street Jail in Philadelphia (built in 1773, but expanded later under a state act) was built by the Quakers and was the first institution in the United States designed to punish *and* rehabilitate criminals. It is considered the birthplace of the modern prison system. Newgate Prison in New York City followed shortly after, in 1797, and was joined 19 years later by the larger Auburn Prison, built in western New York state. All three were perhaps naive experiments in the very new concept of modern penology. They all began as, essentially, warehouses of torture. The gallows and stocks were moved inside, but little else changed. Those who survived generally came out as better-trained thieves and killers.

Between Philadelphia and New York, a schism in philosophies emerged: The Philadelphia system used isolation and total silence as a means to control, punish, and rehabilitate inmates; the Auburn or "congregate" system—although still requiring total silence—permitted inmates to mingle, but only while working at hard labor. At Walnut Street, each cell block had 16 one-man cells. In the wing known as the "Penitentiary House," inmates spent all day every day in their cells. Felons would serve their entire sentences in isolation, not just as punishment, but as an opportunity to seek forgiveness from God. It was a revolutionary idea—no penal method had ever before considered that criminals might be reformed. In 1829, Quakers and Anglicans

expanded on the idea born at Walnut Street, constructing a prison called Eastern State Penitentiary, which was made up entirely of solitary cells along corridors that radiated out from a central guard area. At Eastern State, every day of every sentence was carried out primarily in solitude, though the law required the warden to visit each prisoner daily and prisoners were able to see reverends and guards. The theory had it that the solitude would bring penitence; thus the prison—now abandoned—gave our language the term "penitentiary."



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Ironically, solitary confinement had been conceived by the Quakers and Anglicans as humane reform of a penal system with overcrowded jails, squalid conditions, brutal labor chain gangs, stockades, public humiliation, and systemic hopelessness. Instead, it drove many men mad.

The Auburn system, conversely, gave birth to America's first maximum-security prison, known as Sing Sing. Built on the Hudson River 30 miles north of New York City, it spawned the phrase "sent up the river," meaning doomed. Although far different from Walnut Street, Eastern State, and Auburn, in that inmates were permitted to speak to one another, in many ways it was the most brutal prison ever built. Various means of torture—being strung upside down with arms and legs trussed, or fitted with a bowl at the neck and having it gradually filled with dripping water from a tank above until the mouth and nose were submerged—replaced isolation and silence. Sing Sing also held the distinction of being home to America's first electric chair.

Europe's eyes were on the curious competing theories at Sing Sing and Eastern State. A celebrity at the time, Charles Dickens visited Eastern State to have a look for himself at this radical new social invention. Rather than impressed, he was shocked at the state of the sensory-deprived, ashen inmates with wild eyes he observed. He wrote that they were "dead to everything but torturing anxieties and horrible despair...The first man...answered...with a strange kind of

pause...fell into a strange stare as if he had forgotten something..." Of another prisoner, Dickens wrote, "Why does he stare at his hands and pick the flesh open...and raise his eyes for an instant...to those bare walls?"

"The system here, is rigid, strict and hopeless solitary confinement," Dickens concluded. "I believe it...to be cruel and wrong...I hold this slow and daily tampering with the mysteries of the brain, to be immeasurably worse than any torture of the body."

In the late 1800s, the Supreme Court of the United States began looking at growing clinical evidence emanating from Europe that showed that the psychological effects of solitary were in fact dire. In Germany, which had emulated the isolationist Pennsylvania model, doctors had documented a spike in psychosis among inmates. In 1890, the High Court condemned the use of long-term solitary confinement, noting "a considerable number of prisoners...fell into a semi-fatuous condition...and others became violently insane."

Prisons built after this period—including Angola—were designed more as secure dormitories for captive laborers, as envisioned in the Auburn system. Inmates were required to work together at prison industries, which not only kept them occupied; it helped the institutions support themselves. Sing Sing, for example was built on a mine and constructed entirely of the rock beneath it by inmate labor.

Eastern State was a grand failure, and it was closed in 1971, 100 years after the concept of total isolation was abandoned. But what it revealed about the torturous effects of solitary may have made the practice attractive to those less concerned with rehabilitation and more interested in retribution. Solitary in the 20th century became a purely punitive tool used to break the spirits of inmates considered disruptive, violent, or disobedient. But even the most retributive wardens have rarely used it for more than brief periods. After all, a broken spirit theoretically eliminates danger; a broken mind creates it.

But in the past 25 years, the penal pendulum has swung back toward the practices—absent the theories—that governed the "Philadelphia system" invented at Eastern State. We no longer seem to have faith in the "penitent" part of "penitentiary," and our "corrections" system no longer "corrects" anti-social behavior but inevitably breeds it. It can be argued that today, almost all maximum-security prisoners in America are kept in a kind of solitary for a large portion of their sentences. The advent of "supermax" and "control unit" prisons in the early 1970s has led to the construction of pod-based prisons and "security housing units" in which all inmates are isolated one to a cell for most of every day. They are generally allowed out for an hour each day for exercise or a shower, and are permitted limited personal possessions and visits. Many of the newer prisons enforce the "solitary" aspect by keeping some prisoners in soundproof cells, so they cannot even talk or shout at one another. The lack of regular human contact is still considered inhumane by many rights advocates who have taken to the state legislatures and

courts to challenge its constitutionality. Ironically, one of the loudest advocate groups is the National Coalition to Stop Control Unit Prisons—a project of the American Friends Service Committee, a Quaker group.

[23 years of solitary: Beyond ‘cruel and unusual’](#)

by [Marie Levin](#)

I have not hugged my brother in over two decades. His name is Ronnie Dewberry and he goes by Sitawa Nantambu Jamaa. He has been in solitary confinement in the Security Housing Unit (SHU) at Pelican Bay State Prison since 1990. Ronnie could have been home 17 years ago; he has been eligible for parole since 1996. But, in a waking nightmare, prisoners are routinely told they’ll never make parole while in the SHU – but getting out of the SHU is virtually impossible.



Marie Levin and Irene Huerta, shown here on the Capitol grounds in Sacramento, gave powerful testimony as the only panelists called to testify Feb. 25 at the Assembly hearing on solitary confinement who have loved ones in the Pelican Bay SHU. – Photo: Becky Padilla

His situation is hardly unique. More than 500 prisoners have been in the Pelican Bay SHU for more than 10 years; 78 have been there for more than 20. Placement in the SHU, an “administrative” action within the prison system, is reviewed only once every six years. The only real way out of the SHU is to “debrief” – i.e. inform on other prisoners – which puts prisoners and their families in danger of violent retaliation. Moreover, after being trapped in the SHU for years, many prisoners don’t have any information about other prisoners to provide, even if they wanted to. A common saying around the SHU is that the only way out is to “debrief or die.”

Like others in the SHU, Ronnie is stuck in a cramped, windowless cell for 22 ½ hours a day. He is only let out to exercise alone in a concrete enclosure and to shower three times a week. He is allowed no phone calls, and he is only allowed to receive one package per year.

You might expect that someone who has been punished with solitary confinement for decades is violent and dangerous. But Ronnie is not in the SHU for hurting anyone. California, alone among all 50 states and most other places in the world, locks thousands of people away in solitary confinement for unconscionable periods of time because they are accused of having even the weakest ties to a prison gang.

Ronnie was designated as an “active” gang member because his name appeared on a list in someone else’s cell, because another prisoner accused him of being affiliated with a gang, and because of his political reading and writing about Black history. Prisoners are routinely kept there for the most innocuous reasons, such as having an inappropriate tattoo or a suspect piece of artwork.

Since 1995 Ronnie has only had two minor violations of prison rules. One was for possession of a Black history scrapbook. The other was for participating in two hunger strikes to protest confinement and conditions in the SHU.

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Twice, in 2011, thousands of prisoners across California went without food for several weeks, demanding changes in SHU placement and conditions. The first strike was called off when the California Department of Corrections and Rehabilitation (CDCR) promised to address the prisoners’ concerns – then resumed when those promises went unfulfilled.

The second hunger strike was called off when the CDCR promised to implement a new process for SHU placement. Despite the CDCR’s recent ballyhoo over the revised policy, the “reforms” are essentially window dressing. While the CDCR claims publicly that it has overhauled its SHU policy, the changes have had little practical effect – hundreds of men remain isolated in brutal conditions with effectively no way to get back to the general prison population.

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I have only seen my brother ten times since he has been at Pelican Bay. The drive is almost eight hours, I don’t own a car, and travel and lodging are very expensive. There is so much time between visits that each time I see him, Ronnie looks much older. We’re not allowed any contact at all during visits, and the prison only allows us visits of one to two hours.

But this is hardly the worst our family has suffered while Ronnie has been in the SHU. In 2001, our sister Carol suffered kidney failure. Ronnie was a compatible kidney donor, but the prison would not allow him to make the donation. For years, Ronnie fought for permission to save his sister. Carol died in 2010, in a puddle of blood, bleeding out after a dialysis treatment.

Now, our mother is seriously ill. She has had several strokes, is paralyzed on her right side, has trouble speaking and suffers from cognitive difficulties. She longs to see her only son, but she is no longer able to make the long, difficult trip. I am faced with the heartbreaking realization that she may never see her son again solely because of his writing and reading material – his unjust imprisonment in the SHU that has kept him from being paroled for almost two decades.

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In May, my brother was among 10 men who, together with the Center for Constitutional Rights, filed a lawsuit challenging California’s Pelican Bay SHU practices as unconstitutional. On March 14, their lawyers were in court urging the judge to deny the CDCR’s request to dismiss the lawsuit.

Time and again the prisoners have called off their protests in good faith that promised reforms would come. And time and again the prisoners have been let down. This lawsuit will be necessary until the government ends the unconstitutional conditions inside Pelican Bay, and we can all hug Ronnie once again.

Marie Levin is an active member of the Prisoner Hunger Strike Solidarity coalition, which can be reached at prisonerhungerstrikesolidarity@gmail.com.

Pelican Bay State Prison (PBSP)



**Greg Lewis,
Warden**



**Institution Physical and Mailing
Addresses:**

<u>Physical Address</u>	<u>Inmate Mailing Addr.</u>	<u>Staff Mailing Address</u>
5905 Lake Earl Drive Crescent City, CA 95531 (707) 465- 1000	P.O. Box 7500 Crescent City, CA 95532	P.O. Box 7000 Crescent City, CA 95531-7000

Pelican Bay State Prison - Mission Statement

Pelican Bay State Prison (PBSP) is designed to house California's most serious criminal offenders in a secure, safe, and disciplined institutional setting. One half of the prison houses maximum security inmates in a general population setting. The other half houses inmates in the Security Housing Unit (SHU) designed for inmates presenting serious management concerns. The SHU is a modern design for inmates who are difficult management cases, prison gang members, and violent maximum security inmates.

In Addition, PBSP operates two unique programs: The Psychiatric Services Unit (PSU) which is a 127 bed unit designed and staffed to treat mentally disordered offenders who are serving SHU terms. PBSP also operates a 400 bed, Level I Minimum Support Facility which houses non-violent offenders outside of the secure perimeter of the main institution, and a Fire House with 8 full time inmate fire fighters.

Institution Details

PBSP is located on 275 acres on the North Coast of California, 13 miles from the Oregon/California Border. The institution opened in 1989 to accommodate a need for a growing population of maximum security inmates. Currently in its 22nd year of operation, PBSP operates with a budget in excess of \$180 million.

[The horrifying existence of solitary confinement](#)

by James Simmons

Imagine being locked in a cage alone for 22 ½ hours a day, sometimes for decades on end, with no normal human contact ever and no exposure to direct sunlight ever. Now imagine that during this terrible experience you were subjected to being shot with an assault rifle and dumped in a cell covered with fecal matter until you had an aneurysm – or held down in a scalding hot bath until you received third degree burns all over your body. This isn't Guantanamo Bay or Abu Ghraib ... it's California.



Todd Ashker, one of the four “main reps,” leaders of the campaign to end solitary confinement in California through peaceful protest – the 2011 hunger strikes and another set to begin July 8 unless the prisoners’ Five Core Demands are met as promised – lived in this cell from the time Pelican Bay State Prison opened until last year, when, as punishment, he was moved away from the other main reps. They have persevered, however, and prisoners across California and the U.S. are making plans for peaceful protests.

The state of California calls them Security Housing Units (SHUs), and over 3,000 prisoners are warehoused in facilities like this¹ (up to 80,000 in the U.S. total²). The majority of these prisons have no windows, computers or telephone calls. Showers are typically once a week, mail is withheld regularly, meals are pushed through a slot in the front of their cell, and there is no work or rehabilitation of any kind provided.

A major reason this type of inhumane treatment continues to exist is the common misconception that the average citizen has about who is being housed in these facilities. This is most likely because of the government’s propaganda campaign that consists of claims that these solitary confinement units are only for the “worst of the worst.”

The truth of the matter is that there are many prisoners with no record of violence in the outside world in these facilities and that these same solitary confinement techniques are being used on adolescents in juvenile facilities as well. Pelican Bay State Prison’s Security Housing Unit in Crescent City, California, is widely considered by prisoners as the worst facility for solitary confinement in the state, and experts have called it the worst prison in the United States.

Over a thousand prisoners are warehoused in the SHU at Pelican Bay State Prison (PBSP) and are never given access to direct sunlight, let alone the right to go outside. The rare occasions that they get visitors – as the prison’s location is extremely isolated as well – it is limited to an hour and a half and there is a glass screen separating them.

In fact, prisoners are not only separated from the outside world but within the prison itself, as barriers are put in place for medical visits and to protect all other correctional staff. This kind of isolation that consists of always being inside under artificial light and being alone in a small cage 22 1/2 hours a day – for multiple decades in some cases – has severe psychological implications.

Stuart Grassian, a Harvard psychiatrist specializing in solitary confinement, found that the effects of this type of confinement included trouble with thinking, perception, impulse control, memory, hallucinations and stimuli.³ It was considered after only a couple of weeks of solitary confinement to be “psychological torture.” The culmination of this treatment of prisoners and their conditions at Pelican Bay State Prison led to Amnesty International concluding that the facility was in violation of international law.⁴

If the intention of the prison system is rehabilitation so when prisoners are released they do not return, then we surely must object to solitary confinement.

This extremist version of solitary confinement employed by PBSP will therefore inevitably effect our greater society within the United States, as these inmates develop a gamut of mental illnesses that go untreated before being released back into the general population of the outside world. The “supposed” purpose of the prison system in this nation is to rehabilitate, but these SHU facilities do nothing of the sort and instead just inflict severe psychological damage on prisoners who will most likely be released at some point.

Prison officials at PBSP claim that the SHU facility is intended to keep their other prisons safer from gang violence, yet this kind of violence is still on the rise in California’s prison system, and the SHU is also filled with political prisoners with no gang affiliation who are only guilty of organizing within their respective prisons. This has led to the Center for Constitutional Rights filing a lawsuit against the entire California prison system for their use of long term solitary confinement, claiming it is a form of torture and therefore illegal. To put this all in perspective, solitary confinement was utilized in the 19th century as a form of self-reproach but was abandoned after concerns about the psychological effects of such treatment.⁵

Vaughn Dortch was convicted of petty thievery, got into fights in prison, and was then sent to Pelican Bay State Prison SHU unit. Upon several months of extreme solitary confinement, he began to deteriorate psychologically and covered himself in feces. He was then forced to take a bath in scalding hot water and held down against his will by guards until receiving third degree burns all over his body. Medics refused to give him any pain medication for thirty minutes and the head doctor even went as far as saying that he was not burned. Only one individual was found culpable and fired, while no mechanisms were put in place to prevent an incident like this from occurring again.⁶



This is the inside of the cell where Todd Ashker lived for 25 years. The bunk, which he used as a desk in the daytime, stretches across the back wall. His rolled-up mattress became his chair. Todd Ashker was convicted of burglary and sentenced to six years in prison. Upon entering the prison system, he got into an altercation with another prisoner over a debt and murdered him. According to Ashker, it was self-defense.

When an individual commits murder in prison when serving only a six year sentence, it can be argued that the defensive nature one must maintain within this type of system might be at least partially culpable. An anonymous informant told prison officials that Todd Ashker's murder was connected to the Aryan Brotherhood and as a result of this he was also sent to Pelican Bay State Prison SHU unit, where those who commit violent acts in prison or have gang affiliations are sent.

While serving time there, Ashker got into another altercation; there are two versions of what happened, the state's version and Ashker's. According to Ashker, prison guards set him up for a "gladiator style" fight and when things escalated out of control, he was shot with an assault rifle by a guard in the wrist. His wound nearly severed his hand from his arm and he was immediately dumped into a urine and feces covered cell without medical treatment. Lack of sufficient medical treatment then and afterward resulted in Ashker getting an aneurysm in his wound.

The state of California's official story was that they broke up a fight between Ashker and another inmate and that he was warned multiple times before being shot. The Department of Corrections also denies dumping him in a filthy cell and that lack of decent medical treatment resulted in his aneurysm. A couple of questions come to mind when evaluating the state's official story.

How was Ashker allowed so close to another inmate, when he is supposedly in severe solitary confinement with little to no contact with anyone but prison officials? If the state's story is so accurate, then why was Ashker awarded \$225,000 in a lawsuit against the Department of Corrections in a state notoriously tough on criminals? "In this tough-on-crime attitude here in California, it's always the case that jurors don't want to give a criminal one red cent, so there must have been something that went on there at Pelican Bay," said San Francisco attorney Herman Franck.² These are the kinds of horrendous altercations that occur at Pelican Bay State Prison on top of the psychological torture endured by inmates for years and sometimes decades on end.

If we believe in basic human rights and dignity for all human beings, then we surely must object to solitary confinement.

The only way to get out of the SHU at Pelican Bay State Prison is to "debrief" – or tell prison officials everything you know about the prison gang you have been "validated" to belong to. The only problem is that "debriefing" results in the prisoner putting himself in tremendous danger of being killed once he is back in the general prison population. Because of this California leads the nation in long-term solitary confinement.

Another problematic aspect of these procedures is the process of "validating" gang members. The gang "validation" process has been criticized because it can occur without evidence of any specific illegal activity and heavily rely on anonymous informants, which is circumstantial and almost impossible to repudiate. In Ashker's case, he has denied ties to the Aryan Brotherhood and has never been convicted of committing an illegal gang-related crime. If he is telling the truth, then how on earth is he supposed to "debrief" – even if he wanted to?

As a result of this quagmire and the horrendous conditions that Todd Ashker has had to endure for 26 years – 26 years of no direct sunlight or normal contact with human beings – he has decided to organize to end solitary confinement. Todd has filed lawsuits, organized hunger strikes and, most impressively, a call for a mutually agreed upon ending to hostilities between races and ethnicities in the California prison system.

According to this agreement, California prisoners will end group racial violence against one another and will force the prison system to provide rehabilitation programs and end solitary confinement – as they will have no other excuse left not to. It is these incredible circumstances and tortuous conditions that can lead groups that compete, hate and kill each other to find solidarity in a mutual struggle. For these incredible efforts, Todd says he has been refused proper medical care and given a plexiglas cellfront cover that makes his tiny cell incredibly hot, restricts air flow and makes it almost impossible to communicate.

What it all seems to come down to is whether or not the citizens of California feel it is worth psychologically torturing people for years – and in some cases decades – in order to keep the prison system safer, a claim debunked by the increase in prison violence since SHUs' inception. If we object to Abu Ghraib and Guantanamo Bay, we surely must object to solitary confinement in the U.S.

If the intention of the prison system is rehabilitation so when prisoners are released they do not return, then we surely must object to solitary confinement. If we believe in basic human rights and dignity for all human beings, then we surely must object to solitary confinement. We must also ask ourselves, would I want a friend or family member to be broken down psychologically and tortured for decades by the state?

If we object to Abu Ghraib and Guantanamo Bay, we surely must object to solitary confinement in the U.S.

A society will be remembered by how it treats the most vulnerable and least advantaged individuals within it. Do we want to be remembered for slowly driving people insane for no reason?

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Maps: Solitary Confinement, State by State

In his investigation of solitary confinement in California prisons, Shane Bauer describes a system in which inmates are held in near-total isolation for years, often due to their alleged status as members or affiliates of prison gangs. But when we started looking for details of other states' solitary confinement policies, the information was impossible to find. Not surprisingly, prisons guard facts about their inner workings almost as intensely as they guard their inmates. To get a more complete picture, we contacted every state prison department in the country and asked about their gang and solitary confinement policies. The maps below are based on the replies we received; you'll see that some information is fairly detailed while some is vague or nonexistent. All text in quotes is taken directly from prison press officers' responses or from policies they cited.

WHICH STATES USE SOLITARY CONFINEMENT?

At least 38 states hold prisoners in solitary confinement for various reasons, including breaking rules, posing a security risk, or being a gang member. (Death-row inmates may also be segregated in single cells.) Some state prison departments provided information on inmates' average length of stay in solitary.

Prisons have solitary cells

No solitary cells

No response/unknown

Click on a state for more details.

WHICH STATES KEEP INMATES IN SOLITARY INDEFINITELY?

California inmates may be held in single cells indefinitely; in Pelican Bay State Prison, 89 have been in solitary for **20 years or more**. In at least 19 other states, inmates may also be kept in solitary without definite release dates.

Indefinite solitary confinement

No indefinite solitary confinement

No response/unknown

[Click on a state for more details.](#)

WHICH STATES TRACK GANG MEMBERS IN PRISON?

Forty-two of the prison departments that responded to our questions say they identify or "validate" inmates who are members or associates of prison gangs (also known as Security Threat Groups or STGs). Policies and procedures differ, but most are based on inmates' own declarations of gang affiliation, tattoos, possession of gang paraphernalia, and information from police, prison officials, and confidential informants.

Gang tracking policy

No gang tracking policy

No response/unknown

[Click on a state for more details.](#)

WHICH STATES PUT GANG MEMBERS IN SEGREGATION?

At least 13 states put inmates in solitary confinement or remove them from the general population due to their gang or STG status. However, most states that provided information about their segregation policies say that behavior and rule violations, not gang affiliation, are the primary cause for putting inmates in segregation.

Gang members may be segregated

Gang members not segregated

No response/unknown

[Click on a state for more details.](#)

Source: *Mother Jones* survey of state prison departments. To see the data behind these maps, see [here](#).

MoJo Interview: The Angola 3

Meet the Black Panther Party members who spent 36 years of solitude in a Louisiana state pen—and who a federal magistrate now says should be freed.

▪

Photo of prison wall used under a Creative Commons license from Flickr user mainmanwalkin.



UPDATE: On July 8, a federal judge in Louisiana overturned Albert Woodfox's 1972 conviction. If the state does not request a retrial, he could be freed in the coming weeks. It is unclear whether the court's ruling will influence the progress of Herman Wallace's appeals.

After 35 years, 11 months, and one week, Albert Woodfox and Herman Wallace walked out of solitary confinement for the first time at Louisiana State Penitentiary on March 24, 2008. Originally imprisoned on robbery charges, they were convicted in 1972 of the murder of prison guard Brent Miller. Wallace and Woodfox say they were framed and made an example of by a prison administration that resented their attempts to reform the prison through nonviolent protest. They had, after all, gone so far as to found a chapter of the Black Panthers at Angola, the first and only one inside a prison.

With Robert King Wilkerson, a fellow Panther who was convicted the next year of the murder of a fellow inmate, the men became known as the Angola 3. King established his innocence in 2001 and walked free after 29 years in solitary.

Woodfox and Wallace have the distinction of serving a longer stretch in solitary confinement than any other inmates in the nation's history. They spent every day in cells averaging six feet by nine feet, for 23 hours, spending one hour either showering, running in tight circles on a small, concrete yard surrounded on four sides and above by chain-link and razor wire, or walking up and down along the tier. A bare lightbulb burned 24 hours a day above them in their cells, and television sets bolted to the walls opposite their cells blared constantly. The only climate control was a massive fan at the end of the tier, which did little to alleviate the sultry Louisiana summer days and nothing to warm the cold winter nights. For the first 17 years of their sentence, they were not permitted visitors, and then only a closely monitored, preapproved group of friends and family who were generally only permitted to talk to the men through a metal screen.

To communicate, they shouted to one another; the wardens intentionally kept Woodfox and Wallace on different tiers so they could not see or hear one another unless one was on the yard, where he could shout into the other's barred window.

In 2004, Boston psychiatrist Stuart Grassian, who specializes in the mental effects on extended solitary confinement, evaluated all three men on behalf of their attorneys. Grassian's research details the psychological toll of such confinement, including psychotic breaks, decompensation, and suicidality. Woodfox, Wallace, and King, he noted, had survived with remarkable stoicism, albeit probably damaged for life. Robert King recalled that in the 1980s, when his sister reached to hug him for the first time in almost two decades, he realized he had forgotten how.

The ACLU filed a civil suit on behalf of the men in the Louisiana courts in 2000, contending that the conditions of their captivity amounted to cruel and unusual punishment, and that they had been systematically denied access to due process in order to earn their way back into the general prison population.

NBC Nightly News got ahold of the story and aired a piece entitled "Cruel & Unusual?" about the men on March 16. A few days after the newscast, Rep. John Conyers visited the men, and in his capacity as chairman of the House Judiciary Committee, publicly called for an investigation into Wallace and Woodfox's convictions. Brent Miller's widow, Leontine Verrett, told NBC that she would like to see her husband's real killer or killers identified.

Just a week after NBC aired its segment, Woodfox and Wallace were released from solitary into a new "maximum security dormitory" along with 17 other inmates who had shared the solitary wing on Angola's former death row. (A new death row opened in 2007.) Angola spokeswoman Angie Norwood said the transfer had nothing to do with the media attention, and that the men had been held in solitary all these years for their own protection.

The transition for both has been both thrilling and difficult to adapt to, they say. And they insist the move is not significant in the grand scheme until they win their cases and prove their innocence, and walk out the front gate of Angola into the blissfully stifling bayou air.

The three men have been advised by their lawyers not to discuss their legal cases, in an effort to keep their strategy from the prying eyes of an increasingly agitated attorney general's office. But I spoke by telephone with Woodfox and Wallace on the 36th anniversary of Miller's murder, to check in on their adjustment to new surroundings.

Counterintuitively, it turns out the men aren't getting enough time alone.

HERMAN WALLACE

Mother Jones: What is life in the new dormitory like? What is a typical day like for you?

Herman Wallace: Let me put it to you like this, without saying what it's like for me. I've watched these men when we were in the cells, and some of them would take and be throwing feces on one another. They were angry. They were out of touch with themselves. Once these men come over here, to this dormitory, I could see the change in these guys. I see the humanity coming back into them. Every goddamned day I can see this here.

[A recorded voice chimes in: "This call originates from a Louisiana Correctional Facility and may be recorded or monitored."]

May be recorded? It is being recorded.

You have one guy in here who's been down [at Angola] the longest of everyone. He's been down since 1961. He come here with six years and he wound up with three life sentences. He recognizes this is a very dangerous place. I've often spoke about this guy. Give this man a chance. Give him hope. Get him out of these cells and let him prove himself. And you know what? This guy here is amazing everybody.

That's some of the things I'm happy about. It's giving these guys a chance to get out of themselves. And you know, I appreciate that. For them.

MJ: But what's it like for you?

HW: What's it like for me. [*Laughs.*] That much I don't talk about. When you go to talk about how it affects me and what I think about it, that's a whole different ball game.

MJ: Do you get to go outside and exercise?

HW: Outside? Well you know, I've went outside about two, three times since I've been over here, but it's not the outside that really gets me, because I've got so much work to do. I'm not able to get as much done as I would normally have gotten, because there's so much distraction. These men constantly come to both Albert and I for advice on certain things. They know about this dormitory, they know that it's due to the things that we are doing, and they don't want to do anything to disrupt that. So they are on their best behavior.

When you look at it from that perspective, we understand. But come on. [*Groans.*] I've got to go into the shower, behind the wall, to sit down and write so I wouldn't get disturbed. They're looking for me, and I'm behind the shower.

I believe that they were holding a lot of these guys in these cells because they didn't have other places in order, anywhere else to put them. These guys are not bad. But you put them in a situation where they can't maneuver, then yeah, they're going to respond in the manner that you treat them.

But this is not Albert nor my objective. Our objective is that front gate. We're working our way towards that front gate, gradually.

MJ: Are you feeling optimistic about your case?

HW: I've always been optimistic, you know?

But listen here: A lot of things we're sworn to secrecy on, kind of a gag order—it's not something I'm very comfortable with, but by the same token, we have a force out there who are trying to make things happen, and it wouldn't be all that healthy for either of us to spill the beans on what is in the making and what is about to happen. What you're doing is giving our adversaries the opportunity to counteract what we are doing, particularly because the telephones are monitored.

I think they've been holding us to let other guys know, "Look, if you are involved with anything that is remotely close to what these guys are involved with, your ass is gonna be locked up forever in the same way."

You have wardens who swore they would never take us out of these cells.

I could care less than a shit if they want to settle or not. Personally, I'm ready to go to trial. There are certain things that need to be done because our objective is change, not only for Albert and I, but for the rest of the men. Our suit doesn't cover the other 15 men in this dormitory; the state is going to have to deal with that on their own, in order to cover their ass so these men don't follow suit in the manner that we did. I can talk about that, I can say that, can't nobody shut me up on anything like that.

When they call me "militant" it's because of my defiance, the things that I am pursuing. I'm pursuing my freedom, alright? And they look at that as a "militant" act.

MJ: So you're busy? Working hard?

HW: I'm working so hard, you wouldn't believe. Because you have all of these guys who see what's going on around us and they know we are for real. They come to us for advice about their own cases. So that's what I was saying about ducking around because I need to handle the case for Albert, and I need to handle the case for myself, and vice versa with Albert for me. We have to keep our focus. We can't get sidetracked with all these different other cases. We're at a critical phase and that's so important.

There are programs that I'm already undertaking that I want to reach back into this prison [after I'm out], and prisons beyond Angola to help these guys.

ALBERT WOODFOX

Mother Jones: How does it feel to be out of solitary?

Albert Woodfox: It's still a period of adjustment for me. A lot of distractions. I haven't been able to figure out what my new routine is going to be yet, but you know, slowly...

I'm just giving myself some time to develop a routine that's more conducive to being in a dorm rather than a cell.

MJ: Your attorney tells me you did something like 600 sit-ups in a row? Is that part of your new routine?

AW: [*Laughs.*] Well, that's not at once. That's throughout the day.

MJ: Are you having the same problem as Herman, not getting a lot of time to yourself?

AW: Yes, well, we've somewhat become the village elders. All of the problems, big and small, seem to come to us here. On the one hand it's an honor that the other prisoners in the dorm have enough respect for us that they think we can help them out, but on the other hand it can be distracting at times.

MJ: So are you ever just by yourself?

AW: Yeah, yeah, Herman and I, every once in a while we get off by ourself and just talk about things—personal issues, social issues, or political issues. We try to stay connected to what's

happening in society and in the world, as well as discussing our case and what our next move will be.

MJ: Is it different just getting to talk to Herman face-to-face after all these years?

AW: Oh yeah, we have and will continue to talk about things we've been denied the right to talk about for thirty-some years. Especially the loss of family ones, how it affected us individually and as friends. It's far different from shouting out a window to someone and getting to sit right across from them, you know?

MJ: How are the guards being with you in your new accommodation?

AW: Well you know, the guards run the spectrum of professional to asshole. And we've had a little bit of both.

We're trying to take one day at a time, not become flustered or frustrated about some of the things that happen. You know, its going to take the dorm awhile to evolve its own culture. I think the administration is probably surprised that there's been no major incident in the dorm and that everybody seems to be making the extra effort to live in peace and unity. I think that's a tribute to the determination of the people in the dorm right now to make it a success.

MJ: Do you have more privileges in the dorm than in solitary, more books and newspapers?

AW: Nah, the only thing we have more access to is more space. We have access to the same newspapers we had, the library comes around once or twice a week, the TVs go off at twelve except on Fridays and Saturdays, so that's somewhat new. They used to be on 24/7 in the cells, so to me that's a welcome change.

MJ: So you can experience actual quiet?

AW: Yeah, there are times at night I may wake up at two or three in the morning and I may get up and come sit in the day room and just reflect on where my life is now as to compared to where it was, and where I want it to go.

MJ: Are you feeling hopeful?

AW: Well yeah. Right now the awareness of the cause of the Angola 3 is probably at its highest point. With awareness comes more support; a lot of very important people in the federal and state government have taken an interest in what's going on here in Angola, and hopefully that will help us obtain our main goal, which is our freedom, and to affect some kind of change in the prison system as well.

MJ: So you're hoping what happens in your case serves to help those who might be left behind in Angola when you are free?

AW: Well yeah, it's already helped them. There's a dorm now. At one time CCR (closed-cell restricted—the terminology for solitary at Angola) was a dead end. If you were lucky enough to get out of CCR, you went to the cell block if you were black, and if you were white you usually went to a dormitory environment. So now there's a dorm so you can leave a cell not just for another cell. And hopefully from here into the main prison population.

MJ: What is the biggest difference for you?

AW: The biggest change for me is being able to walk beyond nine feet at one time. For the last 30-some years I was confined to walking nine feet one way and nine feet back the other way. Really, actually shorter, because the metal sink/toilet combination took up about two feet of that.

We get to go to chow, and I've had a visit since [we've come over here] without any restraints. It was kind of strange, being in a large area like that with so many other people. A lot of people came over to the table and wanted to shake my hand and thank me for staying strong and not allowing these people to break me or break Herman. It was great on one hand but it was humbling on the other hand. We never thought so many people cared so much about what happened to us. That so many people's hopes and dreams and courage or whatever was a part of us.

MJ: Do you get to go outside?

AW: Yeah, we have the yard seven days a week. The strange thing about it, when I was in the cell I always had this urgency to go on the yard, because we only had three days a week. But that's kind of disappeared because I know the yard is available. I just started this week developing a workout routine that's somewhat more strenuous and longer than in the cells, a writing routine...you know it takes time to adjust to the various [head] counts at various times, walking to the dining hall, eating, walking back. If anything, it's a pleasure. Being able to go beyond nine feet can be a great feeling.

MJ: Are you getting to see more of your family?

AW: Well my brother came up, my niece and her children, my nephew by his marriage, but mostly it's the people who always visit—that hasn't changed; we're limited on how many people we can have on our approved visiting list.

MJ: What do you do with the free time in your day?

AW: Well I always set aside two hours to read. And I'm always engaged in some kind of conversation, usually with Herman, but people are coming up to me with things that range from personal to legal to social to political. As a matter of fact I was playing dominoes when it was time for me to come and talk to you. I don't watch a lot of TV but when I do it's usually some kind of news show or Animal Planet or Discovery—something educational.

The thing I noticed most about being with Herman is the laughing, the talking, the bumping up against one another, being able to "check" one another; we've been denied this for so long. And every once in a while he'll put his arm around me or I'll put my arm around him. It's those kind of things that make you human. And we're truly enjoying that.

What Extreme Isolation Does to Your Mind

In the 1950s, university researchers put volunteers in tiny rooms and deprived them of sensory input. The results were shocking.



A 2008 BBC reenactment of Donald Hebb's isolation experiments BBC Horizon

The experiences of prisoners held in solitary confinement—the despair, the disorientation, the hallucinations—are well documented, but laboratory observations of isolated human subjects and the profound effects of extreme confinement are exceedingly rare, in part because such experiments might have trouble getting past institutional review boards these days. But that wasn't the case during the '50s, when Donald O. Hebb, a professor of psychology at Montreal's McGill University, set out to study how sensory isolation affects human cognition.

Hebb had previously examined the effects of visual deprivation in rats as a doctoral candidate at Harvard University. In 1951, he secured a \$10,000 grant from the Canadian Defence Research

Board to expand his research to human subjects. The results were dramatic. Depriving a man of sensory input, he soon discovered, will break him in a matter of days.



Hebb's experiments went well beyond the level of isolation prisoners typically experience in solitary. He offered male graduate students \$20 a day—excellent pay for the time—to stay in small chambers containing little more than a bed. "It would be a bit more than a meter wide and a couple of meters long, probably enough for a table or something," recalls Peter Milner, one of Hebb's former graduate students who is now an emeritus psychology professor at McGill.

At the time, Milner was working on another project for Hebb, but he saw the sensory deprivation rooms firsthand. "They were given food by human beings, and also when they needed to use the washrooms and things they would be escorted there by other human beings. So they weren't completely alone," Milner says. He recalls watching as the subjects were led down the hall to the bathroom clad in frosted-over goggles. "They wore goggles and earphones and [there was] some sort of noise, just white noise, from a loudspeaker," he says.

Prone in their isolation rooms, the volunteers also wore gloves and cardboard tubes over their arms to limit their sense of touch. A U-shaped pillow covered their ears and the hum of an air conditioner further obscured outside noise. "According to his theory, the brain would deteriorate if it didn't have a continuous stream of sensory input," Milner told me. "It was really just a test of this theory, which in any case didn't really hold together much, although these sensory deprivation experiments tended to support it."

Hebb had reportedly hoped to observe his subjects for six weeks. As it turned out, the majority lasted no more than a few days in isolation—and none more than a week. "Most of the subjects had planned to think about their work: Some intended to review their studies, some to plan term papers, and one thought he would organize a lecture he had to deliver," wrote Woodburn Heron, one of Hebb's collaborators, in "The Pathology of Boredom," a 1957 *Scientific American* article describing the experiments. "Nearly all of them reported that the most striking thing about the experience was that they were unable to think clearly about anything for any length of time and that their thought processes seemed to be affected in other ways."

"The subjects had little control over the content" of their visions, Heron wrote. "One man could see nothing but dogs, another nothing but eyeglasses of various types."

A series of cognitive tests showed that the volunteers' mental faculties were, in fact, temporarily impaired. While in isolation, for instance, the subjects were played tapes arguing that supernatural phenomena, including ghosts and poltergeists, were real; when interviewed later, they proved amenable to such beliefs. They performed poorly on grade-school tasks involving simple arithmetic, word associations, and pattern recognition. They also experienced extreme restlessness, childish emotional responses, and vivid hallucinations. "The subjects had little control over the content" of their visions, Heron wrote. "One man could see nothing but dogs, another nothing but eyeglasses of various types, and so on."

Nor were their hallucinations merely visual: One volunteer repeatedly heard a music box playing; another heard a full choir accompanying his vision of the sun rising over a church. "One had a feeling of being hit in the arm by pellets fired from a miniature rocket ship he saw; another reaching out to touch a doorknob in his vision felt an electric shock," Heron wrote.

Inspired by Hebb's work, D. Ewen Cameron, head of McGill's psychiatry department during the 1950s, began employing sensory deprivation as part of a technique called "psychic driving," his unsuccessful attempt to "reprogram" the minds of mentally ill patients, some of whom later sued Cameron, according to Milner. In 1956, Cameron wrote in the *American Journal of Psychiatry* that he would hypnotize his schizophrenic patients "under stimulant drugs and after prolonged psychological isolation."

Cameron's experiments were torture, Milner told me, because unlike Hebb's volunteers, Cameron's subjects were entirely under his control. "They were sick people," he says. "They came to him because they had a mental illness, and his job was to cure them. If they had been day patients they would have not bothered to come back. But because they were hospitalized there wasn't much the patient could do. Hebb thought it was not only stupid, but rather wicked. And he was right."

Hebb and his collaborators, Milner says, never intended to advance techniques that could be used to soften up prisoners.

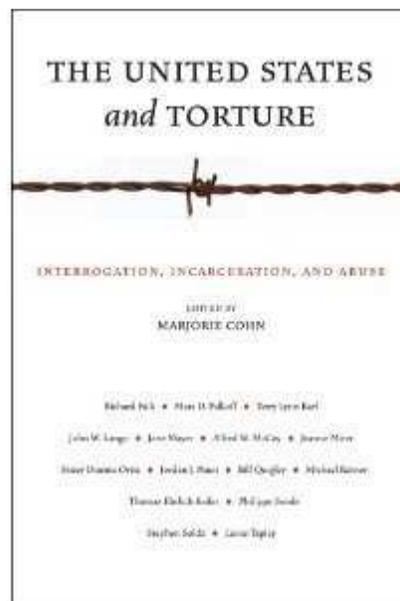
Hebb's work wasn't driven entirely by academic curiosity. There was a concern during the 1950s that the Soviets were using sensory deprivation to brainwash Canadian POWs in Korea, and the McGill researchers viewed their own work—some of which the Canadian government forbid Hebb from publishing—as an attempt to understand sensory deprivation so that some sort of defense might be devised against it. Yet this type of knowledge was famously put to use as part of the Bush-era program of "enhanced interrogation" (a.k.a. torture) of US detainees. As *The New Yorker's* Jane Mayer has reported, psychologists versed in techniques of "Survival, Evasion, Resistance, and Escape"—a military program wherein soldiers were exposed to extreme conditions, including isolation, that they might encounter as POWs—were enlisted to advise

interrogators at Guantanamo Bay. According to Mayer's sources, they essentially "tried to reverse-engineer" SERE techniques to extract information from enemy combatants.

In any case, there's a big difference between *voluntary* isolation, however extreme, and the situation in which thousands of American prisoners find themselves today—stuck in tiny cells for an indefinite length of time with minimal human contact and no clear process by which they might earn their way out. "The really scary thing," noted Sara Shourd, one of three Americans taken captive by Iranian forces in 2009, in a recent interview with *Mother Jones'* James Ridgeway, "is that the US government and many governments were very critical of Iran for holding me in solitary for 13 and a half months, but when I got out I was shocked to find that the US had more people in solitary confinement than any other country—and in this country it is used routinely as an administrative practice, not as a very last resort."

Read about the Fox Reality show where contestants were held in isolation—for a chance at \$50,000.

Supermax prison cells and torture



by Gina Hamilton

Lance Tapley, an award-winning Maine journalist known for his investigative reporting on Maine's prisons and mental institutions, has co-authored a new book on the disturbing subject of torture in America.

The book, "The United States and Torture: Interrogation, Incarceration, and Abuse," was published by New York University Press and edited by Marjorie Cohn. It describes the history and practice of torture in the U.S. and -- as facilitated by the American government -- outside the U.S., at places such as Guantanamo and Abu Ghraib. The book also discusses international

law on torture, how the U.S. is violating that law, and the attempts to hold American officials responsible for torture.

Tapley's contribution to the anthology involves torture that occurs right under our collective noses--- at America's "supermax" prisons. He is no stranger to the murky world of the ill-treatment of prisoners and the mentally ill. Over the last 5 1/2 years, he has been writing on prison abuses for the Portland Phoenix, Prison Legal News, The Crime Report.org, and The Boston Review.

During an interview with Tapley last week, he outlined some of the background that led to supermax prison cells in the first place, and created a culture of corrupting power in prisons, including in Maine's own prison at Warren, where the supermax prison cells are known as the Special Management Unit. There are over 130 of them, and they are nearly always full, Tapley says.

From reformatory to supermax

Originally, the purpose of prison, except for the most violent offenders, was to reform the prisoner and make him a productive member of society. Thus, prisons were called "reformatories" or "penitentiaries," reflecting the notion that some time spent out of society would create a penitent, reformed, and safe member of society. Prisoners were put to hard work that made them less likely to want to return to jail. Society was far more willing to give released prisoners a second chance, too. And the numbers seemed to bear out that such an approach seemed to work for most prisoners. In one Massachusetts study on Recidivism Trends (Daniel P. LeClair, 1985), the recidivism rate in 1971 was 25 percent. By 1973 it had dropped to 19 percent, and by 1975 it was still lower, at 15 percent. In 1979, however, the rate climbed to 26 percent. Although outside the scope of the LeClair study, the average recidivism rate has increased since, until now, the rate stands at 42 percent.

More than four in ten prisoners in Massachusetts return to prison after being released. Nationally, the number is about 43 percent. (Recidivism rates in Maine are unavailable.)

What happened? The LeClair study says that the four hypotheses the study looked at -- a higher risk population in prison, a policy change that released higher risks to parole, a policy change that made parole revocation more likely, or a policy change that occurred detrimental to reintegration programs -- did not fit the data the Massachusetts Prison System was seeing.

But there is one significant correlation that study did not examine. In the late 1970s, and especially throughout the '80s and '90s, maximum security prisons in Massachusetts and elsewhere in the country took on an ominous new tone.

There was much more emphasis on law and order in society at large, with a strong "throw away the key" attitude, replacing the more benign "reformatory" focus of the past. This came into the prisons with guards, who began to violate prisoners and send them to solitary confinement for even minor infractions. Soon, prisoners who were disorderly in any way were sent to special units, in which they were often in solitary confinement 23 hours per day, and subject to beatings and physical and mental abuse at the hands of guards.

The torture of Michael James

One of the points that Tapley makes is that profound isolation causes mental illness. Removal to the Special Management Unit carries with it the loss of all privileges, including furthering one's education (one of the bright spots at Warren is a strong, free, college program for inmates). And many prisoners were mentally ill when they were brought into prison in the first place.

When asylums were closed across the country -- a good step, owing to institutional abuses of patients nearly everywhere in America -- community-based mental health programs were supposed to take their place. In many cases, this either didn't happen at all, or the programs were defunded during tough times, especially during the recession of the 1980s. But releasing patients who had nowhere to go created a homeless crisis virtually overnight, and many of them got into trouble just to stay alive. Without help from the community, they were arrested for minor infractions and put into prison, which Tapley calls the mental hospital of last resort.

One of the lost mental patients that Tapley interviewed was a man named Michael James, who was incarcerated at Warren. Here is a bit of his story:

When you lay eyes on Michael James you first notice the scars on his shaved head, including a deep, horizontal gash. He got that by scraping his head on the cell door slot, which guards use to pass in food trays. "They were messing with me," he explained, referring to guards who taunted him. "I couldn't stand it no more." He added: "I've knocked myself out by running full force into the wall."

James, who is in his twenties, has been beaten all his life, first by family members: "I was punched, kicked, slapped, bitten, thrown against the wall." He began seeing mental-health workers when he was four and taking psychiatric medication when he was seven. He only made it through the second grade in public school, spending most of his early youth in homes for disturbed children. He said he was bipolar, and he also accumulated diagnoses of antisocial-personality, attention-deficit-hyperactivity, post-traumatic-stress, and oppositional-defiance disorders.

James got in trouble with the law as a juvenile, but his real trouble began after a doctor took him off his medications when he was 18. On the street, he got into "selling drugs, robbing people, fighting, burglaries." Soon he was handed a 12-year sentence. Of the four years James had been in prison when I met him, he had spent all but five months in solitary confinement. The isolation is "mental torture, even for people who are able to control themselves," he said.

In addition to solitary confinement and physical brutality, the Maine Department of Corrections has tortured James in another way that recalls American treatment of Islamist detainees. It could be called legal torture. In 2007 James went on trial for 10 felony assaults on guards -- kicking, punching, throwing his feces at them. His court-appointed lawyer, Joseph Steinberger, tried what was apparently a novel defense and convinced a jury in Rockland, the nearest big town to the prison, to find James "not criminally responsible" by reason of insanity. Steinberger thought the verdict was a landmark because it called into question the state's practice of keeping men like James in solitary confinement. After the verdict, as the law required, the judge committed James to a state mental hospital.

But state officials saw the verdict as another kind of landmark. Never before in Maine had a prisoner been committed to the mental hospital after being tried for assault on guards. Apparently worried that inmates might attack guards as a ticket to the hospital, the Department of Corrections refused to send James there, arguing that he first had to serve out the remaining 10 years of his sentence.

University of Maine law professor Orlando Delogu said at the time he thought state officials were taking a page out of President George W. Bush's legal books, which Delogu described as, "We only enforce the law that appeals to us." He saw a parallel between the state's position in the James case and the Bush administration's denial of normal U.S. legal rights to prisoners at Guantánamo.

After a year of legal appeals, the judge finally succeeded in getting James into the hospital, though he conceded to the state that James's time there would not count against his sentence, which he'll have to serve after he's cured, however long that takes.

At one point, Steinberger wrote about his client to Maine's Democratic governor, John Baldacci, begging him to intervene and send James to the hospital:

"He continually slits open his arms and legs with chips of paint and concrete, smears himself and his cell with feces, strangles himself to unconsciousness with his clothing. ... He also bites, hits, kicks, spits at, and throws urine and feces on his guards."

The governor declined.

The dubious legality of the supermax

Lance Tapley says that Maine's supermax is typical. Inmates are alone 23 out of 24 hours a day, get perhaps one hour outdoors in good weather, are denied radios, televisions, and human contact from the outside except for calls from lawyers. Their cell lights are left on; food is shoved through a slot in the door. They get minimal health care and mental health treatment. Inmates are often deprived of sleep by the guards and the pandemonium of the surroundings, peopled by prisoners being driven insane. "What a prisoner has to do to get out of the supermax is usually not revealed to him," Tapley said.

If this scenario sounds like a prisoner-of-war camp run by a country not a signatory to the Geneva Conventions, it is. But the U.S. is a signatory nation and these are not prisoners of war -- in many cases, they are our own citizens.

The United States is also a signatory to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Under that treaty, torture is official treatment that causes "severe pain or suffering, whether physical or mental" when it's inflicted as punishment or for coercion. CAT specifies that torture "does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions." Such as the death penalty. That phrase was included to ensure America's participation.

According to Tapley, however, the suffering that occurs in a supermax prison does not arise from lawful sanctions. It is a consequence of an administrative decision, often made by a low-level guard, rather than a judge in a courtroom, and the inmate has little ability to lawfully challenge his or her placement or supermax conditions because of the severe restrictions placed on inmate lawsuits by the 1996 Prison Litigation Reform Act.

"Severe pain and suffering as punishment are plainly the norm in a supermax," Tapley wrote in his chapter. Even when mental suffering alone is taken into consideration -- ignoring the physically abusive "cell extractions" which Tapley says are legal beatings -- the prolonged

solitary confinement in American supermax units has increasingly been described by U.N. agencies and human rights organizations as cruel, inhuman, degrading, or torture.

And they're being diplomatic.

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Journal Article

• Illinois: Proposed Closure of Tamms Supermax a Step in the Right Direction

MARCH 8, 2012

Letter

Human Rights Watch submitted the following written statement to the US Senate Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights, and Human Rights.

Human Rights Watch is grateful for this opportunity to submit a statement for the Committee's hearing on "Reassessing Solitary Confinement: The Human Rights, Fiscal, and Public Safety Consequences." Based on years of research and analysis, we are convinced the unnecessary, counter-productive, and devastating use of this harsh form of confinement in many US prisons cannot be squared with respect for human rights.

Human Rights Watch is an independent organization dedicated to promoting and protecting human rights around the globe. Since 1980, we have reported on prison conditions within the United States from a human rights perspective, with a special emphasis on the use of solitary confinement. Over the past 15 years, we have conducted investigations in numerous prisons, including super-maximum security prisons; spoken with officials and inmates about solitary confinement; published many reports and commentaries on the issue; and advocated against its misuse.[\[1\]](#) Most recently, we sent a letter to Governor Pat Quinn of Illinois raising our concerns about the conditions of prolonged solitary confinement at the Tamms Correctional Center.[\[2\]](#) We have also addressed solitary confinement in other nations, such as Tunisia and Japan.[\[3\]](#)

This fall, we will be releasing a joint report with the American Civil Liberties Union documenting the prolonged solitary confinement of youth under age 18 in jails and prisons across the United States.

Solitary confinement in US prisons is imposed for different reasons, but most commonly it is used as punishment for breaches of discipline (“disciplinary segregation”) or to manage prisoners considered to be particularly difficult or dangerous (“administrative segregation”).^[4] The increase in solitary confinement in the United States has occurred primarily through administrative segregation, particularly the segregation of prisoners in special super-maximum security facilities built solely for this purpose. Indeed, in our judgment, the proliferation of super-maximum security facilities is the most troubling development in US corrections in recent decades.

Although there are differences between the specific conditions of solitary regimes in different prisons, they share a basic model. Prisoners in solitary typically spend 22 to 24 hours a day locked in small, sometimes windowless, cells sealed with solid steel doors. They lack opportunities for meaningful social interaction with other prisoners; most contact with staff is perfunctory and may be wordless (such as when meals are delivered through a slot in the cell door). Phone calls and visits by family and loved ones are severely restricted or prohibited. A few times a week, prisoners are let out for showers and solitary exercise in a small, enclosed space, sometimes indoors. They often have extremely limited or no access to educational and recreational activities or other sources of mental stimulation, and they are usually handcuffed, shackled, and escorted by correctional officers every time they leave their cells. Assignment to super-maximum security facilities devoted solely to solitary confinement—e.g., Colorado State Penitentiary, Pelican Bay State Prison in California, or Tamms in Illinois—is usually for an indefinite period that often lasts for years.

In some prisons, prisoners in solitary can purchase radios or televisions; participate in educational and skills-enhancing in-cell programs; and access books, newspapers, magazines, and the like. In others, prisoners are denied access to anything more than the basic necessities of survival. The restrictions can exceed the fathomable. In Pennsylvania’s most restrictive units, for example, prisoners have all the usual supermax deprivations plus some that seem gratuitously cruel: they are not permitted to have photographs of family members or newspapers and magazines (unless they are religious).^[5] In some prison systems, prisoners who follow the rules and who engage in prescribed programs can earn their way out of solitary; in others, prisoners can languish in segregation for years, even decades, with little idea of what—if anything—they can do to be re-assigned to a less harsh form of imprisonment.

Corrections authorities must be able to exercise discretion and professional judgment in choosing where and how to confine inmates, but the exercise of such discretion carries the inherent risk of arbitrariness or error. Because of the extreme nature of solitary confinement, particular precautions are needed to minimize those risks and to ensure that no inmate is unnecessarily sent to or kept in such harsh conditions of confinement.

Unfortunately, in most jurisdictions, the criteria for determining entry to and exit from administrative segregation, particularly in super-maximum security facilities, are so vague that arbitrariness and unfairness are inevitable. Few jurisdictions have careful internal review systems to provide an effective check on unnecessary or unduly prolonged solitary confinement, particularly when imposed as administrative segregation. Moreover, few states have an impartial and independent authority, such as an ombudsman or inspector general, who can monitor supermax conditions and provide inmates with an effective recourse against unnecessary or unduly lengthy solitary confinement.

There is no way, of course, to measure the misery and suffering produced by prolonged solitary confinement. Inmates have described such confinement as akin to living in a tomb. Their days are marked by idleness, tedium, and tension. For many, the absence of normal social interaction, of reasonable mental stimulus, of exposure to the natural world, of almost everything that makes life human and bearable, is emotionally, physically, and psychologically destructive. People suffer grievously in prolonged solitary confinement because human beings are social animals whose well-being requires interaction and connection with others as well as mental, physical, and environmental stimulation. As one federal judge noted, prolonged super-maximum security confinement “may press the outer bounds of what most humans can psychologically tolerate.”[\[6\]](#)

Prisoners subjected to prolonged isolation may experience depression, despair, anxiety, rage, claustrophobia, hallucinations, problems with impulse control, and/or an impaired ability to think, concentrate, or remember. Some inmates subjected to solitary confinement develop clinical symptoms usually associated with psychosis or severe affective disorders.[\[7\]](#) Solitary confinement is not only extremely painful for many, it can be literally unendurable, as is evident from the high number of suicides that take place in segregation.[\[8\]](#)

For mentally ill prisoners, prolonged solitary confinement can be a living horror; the social isolation and restricted activities can aggravate their illness and immeasurably increase their pain and suffering. Our research indicates that anywhere from one-fifth to two-thirds of prisoners held in solitary confinement have a serious mental illness which was diagnosed or manifested *before* isolation.[\[9\]](#) Persons with mental illness are often unable to handle the stresses of incarceration and to conform to a highly regimented routine. They may exhibit bizarre, annoying, or dangerous behavior and have higher rates of disciplinary infractions than other prisoners. When lesser sanctions do not curb the behavior, officials isolate these prisoners in segregation units, despite the likely negative mental health impact. Once in segregation, continued misconduct, often connected to mental illness, can keep the inmates there indefinitely.[\[10\]](#) While in segregation, inmates with mental illness rarely receive the mental health services that might ameliorate the symptoms of their illness or improve their ability to cope with incarceration.

Youth are also especially vulnerable to the destructive impact of solitary confinement. Unfortunately, youth in some juvenile and adult facilities throughout the country are regularly subjected to prolonged solitary confinement. For our upcoming report on the isolation of youth

in jails and prisons in the US, we interviewed scores of youth, including a 19-year-old in New York who spent two periods of time in solitary confinement when he was under 18, once for two months and once for nine months. He would receive one hour of outdoor recreation in a small fenced-in cage, but not every day. He was allowed one six-minute phone call each day and was eligible for only three short visits from loved ones each week. The only educational programming he received while in solitary confinement was an in-cell study packet that was delivered to him by a corrections officer.

He told us, “The cell was hell.... Can’t talk to nobody. At that time I didn’t have books or anything. I counted the bricks. There was a bed, a desk, a toilet, a sink and a window.... [The] first thing I thought was, damn, I’m going to be here for 60 days.... I felt like shit. Damn! No contact with anybody for 60 days? I started bugging out in my cell. Started going crazy. [Some]times I wanted to talk to people.... I was talking to myself, ‘Why did you do this?’ Sometimes I scream really loud. It feels good after a while.”[\[11\]](#)

Why Solitary Confinement?

Prisons in the United States have long contained harsh solitary punishment cells where prisoners are sent for breaking prison rules. But what distinguishes the current and expanded use of solitary, particularly in super-maximum security facilities, are the increasingly long terms that prisoners spend in isolation, its use as an inmate population management tool rather than just for disciplinary purposes, and the high-technology methods used to enforce social isolation. No longer a matter of spending a week in “the hole”—prisoners classified as dangerous or disruptive can spend years and even decades in solitary confinement.

The proliferation of super-maximum security prisons is a symptom of profound problems in the nation’s prison systems. Beginning in the 1980s, exploding prison populations caused by increasingly lengthy sentences and diminished opportunities for early release, constrained budgets, inappropriately low staff-to-inmate ratios, and punitive correctional philosophies limited the ability of officials to operate safe and humane facilities. Many turned to prolonged solitary confinement in an effort to increase their control over prisoners. A significant impetus for super-maximum security facilities also came from politicians, who found that advocating harsh policies for criminal offenders was politically popular. Reluctant to be accused of “coddling inmates” or being “soft on crime,” few politicians have been willing to publicly challenge the expanded use of solitary confinement on human rights grounds.

Some thoughtful corrections professionals have always recognized that the proliferation of solitary confinement was unwise. While they may believe that there will always be a few extremely dangerous or disruptive inmates in a prison population who need to be segregated for extended periods of time, they are also convinced that placing thousands of prisoners in prolonged isolation was neither necessary nor good corrections practice. Reducing the size of prisons, providing increased prison services and programs, and adopting strategies to encourage responsible choice, personal development, and, ultimately, successful re-entry into the community would help address the very problems prolonged solitary confinement was supposed

to remedy. Indeed, there is little evidence that the massive imposition of prolonged solitary confinement in expensive super-maximum facilities has improved prison safety, much less improved the skills and competencies of prisoners. To the contrary, prolonged solitary may decrease the ability of prisoners to successfully re-enter their communities upon release from prison.

There has been scant public debate until recently about the justification for prolonged solitary confinement, its high price in terms of the misery and suffering it inflicts, and the likelihood that it reduces an inmate's ability to make a successful transition to society upon release. Judicial scrutiny has been limited by both the courts' tradition of deference to the judgments of prison officials and by jurisprudence that sets an extraordinarily high threshold for finding prison conditions to be unconstitutionally cruel.

This Committee's hearing marks the end of an era of uncritical acceptance of or indifference to the use of solitary confinement in US prisons. It is particularly welcome because of the Committee's recognition that solitary confinement raises serious human rights concerns.

A Human Rights Analysis

All US prisons are subject to human rights standards contained in treaties ratified by the United States and binding on state and federal officials.^[12] For example, the United States is a party to the International Covenant on Civil and Political Rights (ICCPR),^[13] which requires corrections authorities to respect the inherent dignity of each inmate;^[14] prohibits treatment of prisoners that constitutes torture or that is cruel, inhuman, or degrading;^[15] and establishes rehabilitation as the primary purpose of imprisonment.^[16]

While human rights law does not prohibit solitary confinement in any and all circumstances, prolonged solitary of the type and for the lengths of time imposed in US prisons is inconsistent with respect for inmates' humanity. It can also violate the prohibition on cruel, inhuman, or degrading treatment and, depending on the specific circumstances, may even amount to torture.^[17] The conditions of confinement in solitary are unduly severe and disproportionate to legitimate security and inmate management objectives, impose pointless suffering and humiliation, and disregard the fact that all prisoners—even those who may be deemed the “worst of the worst”—are members of the human community.

International treaty bodies and human rights experts—including the Human Rights Committee,^[18] the Committee against Torture,^[19] and both the current and former UN Special Rapporteur on Torture^[20]—have concluded that depending on the specific conditions, the duration, and the prisoners on whom it is imposed, solitary confinement may amount to cruel, inhuman, or degrading treatment that violates human rights. They have specifically criticized super-maximum security confinement in the United States because of the mental suffering it inflicts.^[21] Human rights authorities are unanimous that it should be an exceptional measure imposed only when necessary, only for so long as necessary, and entailing no more deprivation than is necessary.^[22] If legitimate considerations of prison safety and security do necessitate

extended periods of separation from other prisoners, the conditions of confinement must be modified to ameliorate the isolation and to recognize the humanity of the person so confined.

Using a human rights framework to assess solitary confinement therefore requires consideration of the length of time it is imposed, the actual conditions, and the reasons for placing the prisoner in them.^[23] Each factor must be considered in relation to the others. For example, extreme restrictions and controls that might be considered reasonable in dealing with incorrigibly violent inmates become excessive for inmates who have shown no propensity for violence. Deprivation of sources of stimulation, human contact, and activity that may not be unbearably cruel for some inmates can become torturous when imposed on youth under age 18 or mentally ill inmates. Harsh conditions that might not be unacceptable for a few weeks can become inhuman and degrading when imposed for months or years. A fixed period of solitary may be more tolerable than an indefinite period that in fact lasts the same length of time, because uncertainty regarding the duration of solitary confinement can exacerbate the pain and suffering of those subjected to it.

The most recent analysis of solitary confinement by an international human rights expert is that of Juan Mendez, the current UN Special Rapporteur on Torture. Based on a comprehensive and exacting review, Mendez concluded that prolonged isolation is contrary to article 10, paragraph 3 of the ICCPR, which states that, “The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation.”^[24] Moreover, “where the physical conditions of solitary confinement are so poor and the regime so strict that they lead to severe mental and physical pain or suffering of individuals who are subjected to the confinement, the use of solitary confinement itself can amount to acts prohibited by article 7 of the International Covenant on Civil and Political Rights, torture as defined in article 1 of the Convention against Torture, or cruel, inhuman or degrading punishment as defined in article 16 of the Convention.”^[25]

Mendez insists that the use of solitary confinement “can be accepted only in exceptional circumstances where its duration must be as short as possible and for a definite term that is properly announced and communicated.”^[26] He emphasizes that when “solitary confinement is used in exceptional circumstances, minimum procedural safeguards must be followed. These safeguards reduce the chances that the use of solitary confinement will be arbitrary or excessive, as in the case of prolonged or indefinite confinement.”^[27] As have other human rights authorities and experts, he calls for a prohibition on the imposition of solitary on youth and persons with serious mental illness because of the especially harmful impact it has on such vulnerable populations.^[28]

Recommendations

We commend the Committee for recognizing the importance of human rights scrutiny of the use of solitary confinement in US prisons. We hope this hearing and the testimony delivered to the Committee will convince Congress of the imperative of using its authority to reduce the use of solitary in the United States, to improve the conditions of confinement when solitary is imposed,

to curtail the indefinite imposition of solitary, and to end its use on persons who have mental illness and on youth under 18.

More specifically, we make the following recommendations:

1. Congress should enact legislation that will require the Bureau of Prisons and all federal agencies that operate or contract for confinement facilities to prohibit:

- Prolonged solitary confinement;
- Indefinite solitary confinement; and
- The imposition of solitary confinement on youth or persons with serious mental illness

2. Because the history of the use of solitary in the US reveals that procedures for evaluating the necessity of its imposition on particular individuals and the duration of its imposition have been lacking, we think it crucial that Congress require the Bureau of Prisons and all federal agencies that operate or contract for confinement facilities to institute meaningful procedures of review and scrutiny—including with the participation of experts external to the agencies—governing the decision to impose and to continue conditions of solitary confinement for more than a two-week period.

3. Congress should enact legislation that will press states to impose similar requirements to bring their use of solitary confinement into conformity with international human rights standards. Congress should condition federal funding for prisons or law enforcement on the states' adoption of the prohibitions and rules noted in recommendation 1, above.

4. Congress should use its oversight and funding authority to insist that the Department of Justice use its powers under the Civil Rights of Institutionalized Persons Act to ensure that states and local jurisdictions do not impose solitary confinement on youth or on persons with mental illness because such confinement is a violation of the Eighth Amendment of the US Constitution as well as of human rights law.

5. In the interest of protecting youth from practices like solitary confinement, the Senate should give its advice and consent to the ratification of the Convention on the Rights of the Child, signed by the US in 1995, and the Convention on the Rights of Persons with Disabilities, signed by the US in 2009. The US government should also withdraw its reservation to articles 10 and 14 of the ICCPR, which allows the treatment of youth as adults in the US criminal justice system.

6. Congress should take steps to improve transparency and accountability in the use of solitary confinement in the United States. Congress should require the Department of Justice to collect data on the use of solitary in federal and state prisons: the characteristics of who was placed in isolation, for what reasons, for how long, and in what conditions. Also, the Department of Justice should report to Congress on the isolation of youth under federal jurisdiction but held by contract in state facilities.

7. Congress should create a national commission of independent experts to undertake a detailed review of solitary confinement in the United States and to propose specific standards governing its use.

[1] See, for example: Human Rights Watch, *Cold Storage: Super-Maximum Security Confinement in Indiana*, October 1, 1997, <http://www.hrw.org/reports/1997/10/01/cold-storage>; Human Rights Watch, *Red Onion State Prison: Super-Maximum Security Confinement in Virginia*, May 1, 1999, <http://www.hrw.org/reports/1999/05/01/red-onion-state-prison>; Human Rights Watch, *Out of Sight: Super-Maximum Security Confinement in the US*, February 1, 2000, <http://www.hrw.org/reports/2000/02/01/out-sight-super-maximum-security-confinement-us>; Human Rights Watch, *Ill-Equipped: U.S. Prisons and Offenders with Mental Illness*, October 22, 2003, <http://www.hrw.org/reports/2003/10/21/ill-equipped-o>; Jamie Fellner, “A Corrections Quandary: Mental Illness and Prison Rules,” *Harvard Civil Rights-Civil Liberties Law Review*, vol. 41, 2006, <http://www.hrw.org/news/2006/07/01/corrections-quandary>; “Mental Illness, Human Rights, and US Prisons,” Human Rights Watch written statement to the Senate Judiciary Committee Subcommittee on Human Rights and the Law, September 22, 2009, <http://www.hrw.org/news/2009/09/22/mental-illness-human-rights-and-us-prisons>; Human Rights Watch, *Against All Odds: Prison Conditions for Youth Offenders Serving Life without Parole Sentences in the United States*, January 4, 2012, <http://www.hrw.org/reports/2012/01/03/against-all-odds-o>.

[2] Letter from HRW to Governor Pat Quinn, March 8, 2012, <http://www.hrw.org/news/2012/03/08/illinois-proposed-closure-tamms-supermax-step-right-direction>; See also Letter from HRW to Governor Pat Quinn, September 8, 2009; and Letter from HRW to Governor Pat Quinn, May 4, 2009.

[3] See, for example: Human Rights Watch, *Precarious Justice: Arbitrary Detention and Unfair Trials in the Deficient Criminal Justice System of Saudi Arabia*, March 25, 2008; Human Rights Watch, *Tunisia – Long-Term Solitary Confinement of Political Prisoners*, July 7, 2004; Human Rights Watch, *Prison Conditions in Japan*, March 1, 1995.

[4] Corrections officials prefer to use terms such as “segregation” rather than solitary confinement. We consider the terms interchangeable, since both refer to 22- to 24-hour-a-day in-cell confinement, as described below.

[5] Fred Cohen, “Penal Isolation: Beyond the Seriously Mentally Ill,” *Criminal Justice and Behavior*, vol. 35, no. 8, August 2008, <http://cjb.sagepub.com/content/35/8/1017.abstract> (accessed June 13, 2012).

[6] *Madrid v. Gomez*, 889 F. Supp. 1146 (N.D. Cal. 1995).

[7] Human Rights Watch, *Out of Sight: Super-Maximum Security Confinement in the US*, February 1, 2000.

[8] Dr. Jeffrey L. Metzner and Jamie Fellner “Solitary Confinement and Mental Illness in U.S. Prisons: A Challenge for Medical Ethics,” *The Journal of the American Academy of Psychiatry and the Law*, vol. 38, no. 1, 2010, <http://www.hrw.org/news/2010/03/22/solitary-confinement-and-mental-illness-us-prisons>.

[9] Human Rights Watch, *Ill-Equipped: U.S. Prisons and Offenders with Mental Illness*, October 22, 2003, Chapter XII. Although designed and operated as places of punishment, prisons have nonetheless become *de facto* psychiatric facilities, despite often lacking the needed mental health services. Studies and clinical experience consistently indicate that 8 to 19 percent of prisoners have psychiatric disorders that result in significant functional disabilities, and another 15 to 20 percent require some form of psychiatric intervention during their incarceration. Sixty percent of state correctional systems responding to a survey on inmate mental health reported that 15 percent or more of their inmate population had a diagnosed mental illness. Metzner and Fellner “Solitary Confinement and Mental Illness in U.S. Prisons: A Challenge for Medical Ethics,” *The Journal of the American Academy of Psychiatry and the Law*.

[10] Human Rights Watch, *Ill-Equipped: U.S. Prisons and Offenders with Mental Illness*, October 22, 2003; Fellner, “A Corrections Quandary,” *Harvard Civil Rights-Civil Liberties Law Review*.

[11] Human Rights Watch interview with Jacob L. (pseudonym), New York, April 2012.

[12] Human Rights Watch, *Out of Sight: Super-Maximum Security Confinement in the US*, February 1, 2000.

[13] International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, ratified by the United States on June 8, 1992.

[14] ICCPR, art. 10 requires officials to treat prisoners “with humanity and with respect for the inherent dignity of the human person.”

[15] ICCPR, art. 7. No one “shall be subjected to torture or to other cruel, inhuman or degrading treatment or punishment.” The Convention against Torture, to which the United States is a party, contains a similar prohibition. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), adopted December 10, 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987, ratified by the United States on October 21, 1994.

[16] ICCPR, art. 10. The “essential aim” of the treatment of prisoners “shall be their reformation and social rehabilitation.”

[17] See, for example: UN Human Rights Committee, General Comment 20, Article 7, Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 30 (1994), para. 6.; UN Human Rights Committee, Consideration of reports submitted by States parties under Article 40 of the Covenant, Concluding observations of the Human Rights Committee, United States of America, UN Doc. CCPR/C/USA/CO/3 (2006); UN Committee Against Torture, Consideration of reports submitted by States parties under Article 19 of the Convention, Conclusions and Recommendations of the Committee Against Torture, United States of America, UN Doc. CAT/C/USA/CO/2, 2006; UN General Assembly, Torture and other cruel, inhuman or degrading treatment or punishment: Note by the Secretary-General, U.N. Doc. A/63/175, July 28, 2008, p. 18-21.

[18] UN Human Rights Committee, General Comment 20, Article 7, Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 30 (1994),

[19] UN Committee Against Torture, Consideration of reports submitted by States parties under Article 19 of the Convention, Conclusions and Recommendations of the Committee Against Torture, United States of America, U.N. Doc. CAT/C/USA/CO/2 (2006).

[20] UN General Assembly, Torture and other cruel, inhuman or degrading treatment or punishment: Note by the Secretary-General, U.N. Doc. A/63/175, July 28, 2008, p. 18-21.

[21] UN Human Rights Committee, Consideration of reports submitted by States parties under Article 40 of the Covenant, concluding observations of the Human Rights Committee, United States of America, UN Doc. CCPR/C/USA/CO/3, (2006); UN Committee Against Torture, Consideration of reports submitted by States parties under Article 19 of the Convention, Conclusions and Recommendations of the Committee Against Torture, United States of America, UN Doc. CAT/C/USA/CO/2, (2006).

[22] In addition to the international authorities cited above, the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has reached similar conclusions regarding solitary confinement. See CPT Standards, para. 56, <http://www.cpt.coe.int/en/documents/eng-standards.pdf> (accessed June 14, 2012). The CPT was created under the European Convention of the same name to monitor the treatment of prisoners in Council of Europe nations and to recommend measures to strengthen protections from torture or other inhuman or degrading treatment.

[23] Human Rights Watch, *Out of Sight: Super-Maximum Security Confinement in the US*, February 1, 2000.

[24] ICCPR, art. 10, para. 3.

[25] UN General Assembly, Torture and other cruel, inhuman or degrading treatment or punishment: Note by the Secretary-General, U.N. Doc.A/66/268, August 5, 2011, para. 74.

[26] Ibid., para. 75.

[27] Ibid., para. 89.

[28] UN Committee on the Rights of the Child, General Comment No. 10, Children's rights in juvenile justice, U.N. Doc. CRC/C/GC/10 (April 25, 2007); UN General Assembly, Rules for the Protection of Juveniles Deprived of their Liberty, U.N. Doc. A/RES/45/113 (December 14, 1990); The Istanbul Statement on the Use and Effects of Solitary Confinement, adopted at the International Psychological Trauma Symposium, December 9, 2007, http://www.univie.ac.at/bimtor/dateien/topic8_istanbul_statement_effects_solconfinment.pdf (accessed June 14, 2012). The US has also signed the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD). **The CRC recognizes that youth have special rights and, when they come in conflict with the law, should be treated in a manner that promotes their reintegration in and contribution to society.** Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990. The United States signed the CRC in 1995 but has not ratified. **The CRPD recognizes that persons with intellectual and psychosocial disabilities must be ensured reasonable accommodation and respect for their difference, including in their treatment when deprived of their liberty.** Convention on the Rights of Persons with Disabilities (CRPD), adopted December 13, 2006, G.A. Res. 61/106, Annex I, U.N. GAOR, 61st Sess., Supp. (No. 49) at 65, U.N. Doc. A/61/49 (2006), entered into force May 3, 2008. The United States signed the CRPD in 2009 but has not ratified.