

VIOLATIONS OF THE CONVENTION AGAINST TORTURE: SOLITARY CONFINEMENT IN U.S. PRISONS

In its periodic report before this Committee, the U.S. government states that there is “no systematic use of solitary confinement in the United States.”¹ But the U.S. government holds nearly 800 people in solitary confinement in federal facilities, and there are approximately 80,000 prisoners in solitary confinement in state and local jails, prisons, and detention centers across the U.S. At California’s Pelican Bay State Prison alone, where CCR is challenging the constitutionality of prolonged solitary confinement, approximately 1,000 prisoners are held in isolation. Hundreds of the prisoners at Pelican Bay have been in solitary for over a decade.

Wherever they are held, prisoners in solitary confinement are typically warehoused in cramped, concrete, windowless cells in a state of near-total solitude between 22 and 24 hours a day.² They are deprived of any normal human interaction, stimulation, meaningful programming or vocational opportunities. It is well-documented that solitary confinement, and particularly prolonged isolation, poses a grave risk of psychological and physical harm for *all* prisoners. The psychological effects of this form of isolation frequently persist even after they are released. The incidence of suicides, attempted suicides, self-harm and the development of mental illness are much higher among prisoners who have been in solitary confinement. Our clients at Pelican Bay have told us that they feel like they are “silently screaming” all day, and that they have forgotten what it feels like to touch another human being.

The U.S. also asserts in its periodic report that the federal Department of Justice (DOJ) and Bureau of Prisons (BOP) meet their constitutional and statutory mandates by confining prisoners in facilities that are “safe, humane, and appropriately secure.” But at the federal Administrative Maximum (“ADX”) facility in Florence, Colorado, more than 400 inmates spend 23 hours a day locked in concrete cells in conditions of extreme isolation.³ In February 2014, several prisoners went on hunger strike at ADX and were force-fed.⁴ A former warden of the facility has called it “a cleaner version of hell.” Compounding the ill-effects of solitary confinement, the DOJ also imposes Special Administrative Measures (SAMS), a particularly harsh form of solitary confinement, on a number of prisoners in the federal system. SAMS are at times imposed pre-trial, placing undue pressure on detainees and impairing their ability to effectively assist in their defense). The DOJ has withheld virtually all information about the use of SAMS, including who and how many are subject to the measures, where these individuals are being held, and what the measures entail.⁵ SAMS can include provisions effectively barring his attorneys and family members from sharing any information received from a prisoner – including about conditions he faces in prison – with third parties, under threat of criminal sanction.

The U.S. also claims in its report that U.S. courts have prohibited solitary confinement for certain vulnerable populations. While such rulings have been won by prisoners via litigation, they only apply to specific facilities or states, and do not prohibit the vast overuse of solitary confinement across the country. As a result, prisoner and detainees, regardless of age, gender, or physical or mental health, may be subject to solitary confinement. Vulnerable populations, including people with mental disabilities, children, women, LGBTI persons and people in immigration detention continue to be disproportionately held in solitary, as numerous reports have documented.⁶

¹ U.S. Dep’t of State, Third to Fifth Periodic Reports of the United States to the Committee Against Torture ¶ 214 (Dec. 4, 2013), U.N. Doc. CAT/C/USA/3-5

² Center for Constitutional Rights, et al., *The Use of Prolonged Solitary Confinement in United States Jails, Prisons and Detention Centers*, September 2014, available at http://www.ccrjustice.org/files/CCR_CAT%20Submission_SolitaryConfinement.pdf

³ Pardiss Kebraei, *The Torture that Flourishes From Gitmo to an American Supermax*, *The Nation*, January 30, 2014, available at <http://www.thenation.com/article/178172/torture-flourishes-gitmo-american-supermax>

⁴ Solitary Watch, *ADX H-Unit on Hunger Strike, Prisoners Being Force Fed*, February 25, 2014, available at <http://solitarywatch.com/2014/02/25/adx-h-unit-hunger-strike-prisoners-force-fed/>

⁵ The only available official data is from 2009, when DOJ reported that there were 44 prisoners subject to SAMS in Bureau of Prisons (“BOP”) facilities. See U.S. DOJ, *Fact Sheet: Prosecuting and Detaining Terror Suspects in the U.S. Criminal Justice System*, June 9, 2009, available at <http://www.justice.gov/opa/pr/2009/June/09-ag-564.html>.

⁶ Jeffrey L. Metzner & Jamie Fellner, *Solitary Confinement and Mental Illness in U.S. Prisons: A Challenge for Medical Ethics*, 38 J. AM. ACAD. PSYC. L. 104, 104-05 (2010). See also American Civil Liberties Union (ACLU) and Human Rights Watch, *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the U.S.*, October 2012, available at <http://www.aclu.org/files/assets/us1012webwcover.pdf>; ACLU, *Alone and Afraid: Children held in Solitary Confinement and Isolation in Juvenile Detention and Correctional Facilities*, June 2014, available at <https://www.aclu.org/files/assets/Alone%20and%20Afraid%20COMPLETE%20FINAL.pdf>; ACLU, *Worse than Second-Class: Solitary*

We urge the Committee to question the U.S. government on the use of solitary confinement in U.S. prisons, jails and detention centers during the CAT review session and highlight the issue in its concluding observations.

Suggested Questions:

1. What measures is the U.S. government proactively taking to eliminate or severely limit the use of prolonged solitary confinement in all jails, prisons and detention centers, such as at the Pelican Bay State Prison in California?
2. Is it the case that judicial limitations on solitary confinement have resulted from litigation brought by prisoners and legal organizations, and that favorable rulings limiting the use of solitary apply only to specific facilities or in specific states?
3. Can you address the harsh conditions of confinement at the federal “supermax” facility in Florence, Colorado? Is it correct that prisoners there have engaged in a hunger strike and have been force-fed?
4. How are you monitoring the imposition of solitary confinement on particularly vulnerable detainees such as juveniles, immigrants, persons with mental disabilities, and LGBTI people? What steps are you taking towards the elimination of solitary confinement for these persons?
5. How many people are currently under SAMs, and what are typical conditions for prisoners under SAMs?
6. How does the federal government ensure that state prisons are complying with international human rights standards, particularly in California and other states where prolonged solitary confinement is common?

Suggested Concluding Observations:

- Prohibit prolonged solitary confinement (in excess of 15 days) in U.S. prisons, jails, and detention centers, except under exceptional circumstances. Where solitary confinement is used, its duration must be as short as possible and for a definite term that is properly announced and communicated. People with mental disabilities or persons under 18 years should never be placed in solitary confinement. End the practice of solitary confinement for people in pre-trial detention.
- Ensure that those prisoners who are sent to solitary confinement are only sent for the most serious disciplinary infractions, where no other less restrictive alternatives exist, and receive meaningful process prior and subsequent to such confinement.
- Develop standards to ensure that actual or perceived race, political affiliation, religion, association, vulnerability to sexual abuse, and challenging violations of one’s rights as a prisoner plays no role in the decision to confine a prisoner to solitary confinement.
- Compile and make public data on the use of solitary confinement in federal, state, and local prisons, including data on the effect of isolation on detainees.