



Buried Alive

Solitary Confinement in Arizona's Prisons and Jails

by Caroline Isaacs and Matthew Lowen

American Friends Service Committee – Arizona

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Published by

American Friends Service Committee-Arizona

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**American Friends
Service Committee**

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I. EXECUTIVE SUMMARY

StopMax is a national campaign spearheaded by the American Friends Service Committee (AFSC) that seeks to end the use of long-term solitary confinement in prisons and jails.

This report represents the launch of the StopMax Arizona campaign. It is the culmination of an extensive research project examining three diverse correctional institutions in the state: the Arizona Department of Corrections, the Arizona Department of Juvenile Corrections, and the Maricopa County Fourth Avenue Jail. This report summarizes our findings and offers a series of recommendations for improvements in these systems.

This report is the first of its kind in Arizona. To our knowledge, these units have never been extensively catalogued or investigated. The findings are deeply troubling. **Arizona has chosen to employ long-term isolation not only for sentenced adult felons but also for juveniles under 18 years of age and for persons detained in jail prior to being found guilty of the criminal charges pending against them.** The implications of these practices are far reaching and potentially damaging to Arizona families and communities.

Solitary confinement in supermax units is characterized by holding prisoners alone at least 23 hours per day for months or years. The cells are generally the size of a small bathroom and are outfitted only with a toilet, a sink, and a slab of metal protruding from the wall as a bed. Many such cells have no windows and no way to tell if it is daytime or nighttime. Prisoners describe either an eerie silence or a deafening wall of constant noise 24 hours each day. Prisoners eat alone and most human “interaction” occurs through a small slot in a steel door. Shakedowns, or cell searches, by guards and strip searches are common. These prisoners have extremely limited access to prison programs. They are forbidden from holding jobs or attending most rehabilitative or educational programs. In 2000, the United Nations Committee Against Torture called the “excessively harsh regime” of supermax prisons a violation of the *U.N. Convention Against Torture*.

Supermax units have acquired various names, such as management control units, secure housing units (SHUs), closed custody units, or special management units (SMUs). No matter the name, each employs long-term solitary confinement. This distinguishes them from short-term disciplinary segregation units, often referred to by prisoners as the hole. Instead, these units serve what prison operators term “administrative segregation” purposes. Primarily this involves isolated separation of death-sentence prisoners, prisoners who have been threatened or attacked by other prisoners, and, most often, prisoners found

in need of behavioral modification because of alleged gang membership or behavioral problems. Assignment to such units is a purely administrative decision, controlled by corrections officials, raising concerns regarding protections of a prisoner's right to due process.

The report examines three different correctional systems in the state of Arizona: the Arizona Department of Corrections, which houses people convicted of felonies who have been sentenced to more than one year; the Arizona Department of Juvenile Corrections, which holds juveniles adjudicated delinquent and committed to its jurisdiction by the county juvenile courts; and the Maricopa County Jails, which primarily detain people who are awaiting trial but have not been convicted of the crime for which they are accused.

In the **Arizona Department of Corrections** (ADC), there are two facilities built exclusively for long-term isolation confinement: Special Management Units (SMU) I and II. Together, they house 1,623 human beings, 26 percent of whom are mentally ill. *In Arizona, 4.6 percent of the entire prison population resides in long-term solitary confinement.* Prisoner testimony to AFSC reveals an average supermax confinement period of a total of five years, which is in keeping with a recent national study which concluded that most prisoners are held in solitary confinement for more than five years. Letters to AFSC from prisoners describe that in supermax, "the feeling of being buried alive is real." One prisoner stated, "I never truly wanted to die until I had spent time in an Arizona SMU." According to a National Public Radio report by Laura Sullivan, housing people in solitary confinement can cost \$50,000 more than the average \$20,000 that is spent on each prisoner per year in Arizona.

The **Arizona Department of Juvenile Corrections** (ADJC) has been under investigation and sanctions from the US Department of Justice on and off since 1987 for abusive conditions of confinement, including an overuse of "separation," ADJC's term for solitary confinement. DOJ monitors found that in mid-2006, the rate of separation was increasing and accounted for 2.85 percent of the total juvenile corrections population. Recent research in cognitive science shows that the brain does not mature until well into the early twenties, particularly those parts of the brain that govern impulsivity, judgment, planning for the future, foresight of consequences, and other characteristics relating to moral culpability. This research reveals that subjecting youth to isolation conditions is an ineffective strategy for punishing or correcting behavioral problems. The ADJC adheres to an adult corrections model even though many states around the nation have adopted a decentralized model of

dormitory living, intense program supervision, and therapeutic interventions that have proven to be much more effective.

Maricopa County Jails hold the fourth largest inmate population in the United States. The Maricopa County Sheriff's Office, which oversees the jails, just opened a new Fourth Avenue jail featuring a supermax security wing with 144 beds. A total of 288 close custody cells exist in the jail, employing various levels of solitary confinement. Prisoners in the Maricopa supermax facility report conditions far worse than those in the State Department of Corrections. Seventy percent of Maricopa's jail inmates are awaiting trial and have not been convicted of the crimes of which they are accused. The U.S. Justice Department has repeatedly investigated abuse and poor conditions in the Maricopa County Jails, and even Amnesty International has decried the harsh treatment of detainees. Sheriff Joseph Arpaio of Maricopa County regularly makes headlines for the tough conditions of confinement in his jails, claiming that this will discourage detainees from committing crimes in the future. But a study Arpaio commissioned at Arizona State University found no improvement in the recidivism rate under his administration when compared to that of prior sheriffs.

Summary of Key Findings

1. **Prisoners in supermax units have higher rates of mental illness.** People with mental illnesses are more likely to wind up in supermax because their symptoms cause them to repeatedly break prison rules, resulting in a gradual increase in their security classification. *One in four prisoners in the Arizona Department of Corrections' Special Management Unit is mentally ill.* A study of Washington state prisoners similarly found that prisoners with mental illness were five times more likely to be placed in supermax.

2. **Supermax units are damaging to prisoners' mental health.** Mental Health experts have found that long-term isolation conditions have exacerbated and even *produced* mental illness in otherwise healthy people. Supermax prisoners can develop a syndrome involving visual and auditory hallucinations, hypersensitivity to noise and touch, paranoia, uncontrollable feelings of rage and fear, and massive distortions of time and perception. Studies have also found that supermax confinement increases the risk of prisoner suicides. New York State found that 53 percent of all mentally ill inmates in supermax confinement had attempted suicide.

3. **There is no evidence that supermax units reduce prison violence.** Despite correctional assertions that such conditions are necessary to control assaultive prisoners,

Chad S. Briggs' 2006 study of the impact of supermax units on aggregate levels of violence within prisons concluded that "[n]o support was found for the hypothesis that supermaxes reduce levels of inmate-on-inmate violence" and that "[m]ixed support was found for the hypothesis that supermax increases staff safety." Arizona was one of three states examined in the study, which found that the opening of SMU I had no measurable impact on the number of staff assaults. More surprising was the finding that *assaults on prison guards actually increased temporarily after the opening of SMU II*, from five to seven per month.

4. Research suggests that long-term isolation is linked to increased recidivism. We received numerous reports of Arizona prisoners being released to the community directly from solitary confinement units with no transition time or assistance. One study of recidivism rates among supermax prisoners in Washington State found a distinct correlation between immediate release from supermax conditions and increased recidivism. Also, prisoners with mental illness were much more likely to recidivate. Although an Arizona inmate program evaluation found that high program participation while in prison reduces recidivism by 35 percent or more, supermax prisoners have little to no access to any program participation. Shockingly, none of the three institutions studied in this report could provide recidivism data for prisoners released from supermax units.

Conclusions

This report shows that the use of long-term isolation is not only a violation of international human rights standards, but a thoroughly ineffective behavior-management tool that actually exacerbates and produces mental illness, frequently resulting in *increased* behavioral problems. Those who believe that some incarcerated children and adults deserve the most severe punishment for their crimes must consider whether this punishment is having the intended effect.

Regardless of differing political views, most people want the same thing from their criminal justice policies: increased public safety. We want people to be held accountable for their mistakes and to become contributing members of society. We want less crime. Increasingly, however, research and investigations are showing that supermax confinement creates more problems than it solves.

Recommendations

Immediate measures

1. All facilities employing any level of long-term isolation should be subject to permanent review and monitoring by an independent body that is empowered to hold the facility accountable for problems and enact necessary reforms.
2. One aspect of this monitoring should be a requirement to collect and release to the public statistical data that indicates the impacts and effectiveness of this type of confinement, including:
 - a. Incident reports of assaults, disturbances, suicides, and suicide attempts by unit;
 - b. Percentage of prisoners with mental illnesses, onset of symptoms correlated to housing in solitary confinement, and treatment requested and received;
 - c. Recidivism rates by unit, mental health status, and length of time in solitary confinement;
 - d. Cost data.

Intermediate measures

3. All facilities should be sufficiently funded to allow for adequate mental health treatment, including maintaining proper staffing levels, providing ongoing staff training, and delivering the community standard of care for all mentally ill prisoners, including timely and consistent delivery of proper medications.

Long-term measures

4. Under no circumstances should prisoners with a history or symptoms of mental illness be held in long-term solitary confinement conditions.
5. Juveniles and pre-trial detainees should never be held in long-term solitary confinement conditions.
6. Eliminate the use of long-term solitary confinement in all Arizona facilities.

II. INTRODUCTION AND OVERVIEW

The feeling of being buried alive is real.

— Arizona SMU II prisoner¹

The Advent of the Supermax

In 1972, a new type of prison unit was established in the Marion Federal Penitentiary in Illinois. Called the Management Control Unit, the facility was described by one prisoner as a “prison within the prison.” Prisoners were held in solitary confinement for extended periods of time, with few opportunities for exercise, showers, or rehabilitative programming. At the time, the Marion control unit held sixty prisoners, and was one of a handful of such units around the country. In 1985, there were approximately half a dozen such units. According to a 2003 AFSC report, by 1997, forty-five states, the Federal Bureau of Prisons, and the District of Columbia were operating control units.

The U.S. Bureau of Justice Statistics reports a dramatic increase in the use of isolation in U.S. prisons between 1995 and 2000. The Commission on Safety and Abuse in America’s Prisons found that during that period “the growth rate of the number of prisoners housed in segregation far outpaced the growth rate of the overall prison population: 40 percent compared to 28 percent.” In 2002, Human Rights Watch reported that over 20,000 prisoners, almost 2 percent of the U.S. prison population, were being held in long-term solitary confinement (Kamel and Kerness).

It should come as no surprise that Arizona is one of the states employing long-term isolation in its prisons. What is surprising, however, is the fact that these conditions are not reserved only for the adult state prisoner population, but are in fact being applied to pre-trial jail detainees and juveniles.

The Arizona StopMax Campaign

Concerned by what we have observed over the last thirty years of monitoring prison trends, AFSC recently decided to launch a national campaign to end the use of isolation and segregation in U.S. prisons. The **StopMax Campaign** consists of efforts in seven states across the U.S. to examine the extent of the use of these units, the particular conditions

¹ Prisoner testimony 039, Personal communication to AFSC, 2006

within them, the characteristics of the prisoners held there, and opportunities for fundamental changes in policy or practices within various correctional systems.

This report represents the launch of the StopMax Campaign in Arizona. It is the culmination of an extensive research project examining three diverse correctional institutions in the state: the Arizona Department of Corrections, the Arizona Department of Juvenile Corrections, and the Maricopa County Fourth Avenue Jail. This report summarizes our findings and offers a series of recommendations for improvements in these systems.

The report is the first of its kind in Arizona. To our knowledge, these units have never been extensively catalogued or investigated. The American Friends Service Committee is not a clinical or academic research organization. We have attempted to solicit the most accurate and thorough information from each of the institutions in question. However, in many cases information was not provided to us despite repeated written and verbal requests. We have consulted with service providers, academics, current and former correctional personnel, and attorneys. We researched published works, journalistic accounts, and other sources to create as multifaceted an account as possible. In addition, we have solicited the personal testimony of those held in these facilities, former prisoners held in isolation, and their families.

The American Friends Service Committee has a longstanding commitment to critical examination of the criminal justice system. The AFSC's concern for both crime survivors and people convicted of or accused of crimes is rooted in the Quaker belief that there is "the Light of God" in every person, rendering each individual a person of worth who deserves dignity and respect (Magnani and Wray, 2006). It is this fundamental value that underscores Quakerism's historic opposition to slavery, support of women's suffrage, and backing of humanitarian efforts around the world. AFSC criminal justice programs have been tracking the rise in the use of control units since the emergence of this trend in the 1970s.

We were surprised and concerned by what we learned in this process. The use of long-term solitary confinement is not restricted to special circumstances as it once was. It is not limited to one facility or one segment of the population (i.e., the "worst of the worst"). It has become such a routine correctional management tool that Arizona now places juveniles and pre-trial detainees in isolation conditions.

This report will show that the use of long-term isolation is not only a violation of international human rights standards, but a thoroughly ineffective behavior-management

tool that exacerbates and even produces mental illness, frequently resulting in *increased* behavior problems. Even those who believe that some incarcerated children and adults deserve the most severe punishment for their crimes must consider whether this punishment is having the intended effect. Regardless of differing political views, most people can agree on the goal of our criminal justice policies: increased public safety. We want people to be held accountable for their mistakes and become contributing members of society. We want less crime. Increasingly, however, research and investigations are showing that solitary confinement creates more problems than it solves.

What Is a Supermax?

These units are called by various names, depending on the facility: supermax units, management control units, secure housing units (SHU), closed custody units, separation, special management units (SMU). What defines them all is the use of long-term solitary confinement.

Generally in correctional settings, there are two types of segregation: disciplinary and administrative. Disciplinary segregation, referred to by prisoners as “the hole,” is applied as a short-term punishment for breaking prison rules. Most prison units have a “Complex Detention Unit” or CDU which is reserved for this purpose. By contrast, administrative segregation is reserved for those prisoners deemed to pose a serious risk to other prisoners (or for those who must be separated from other prisoners for their own protection), and is carried out in independent supermax facilities.

Both types of segregation employ a sensory deprivation environment and severe loss of privileges, such as access to phones, showers, and outdoor recreation. The difference is that supermax units employ these conditions over extended periods of time (six months to several years), sometimes for the person’s entire sentence. Laura Sullivan states in her NPR interview that most prisoners in solitary confinement throughout the United States “have been there for more than five years.” Increasingly, people are being sent straight to such units without ever spending time in the general prison population, then being released directly back to their communities.

Prisoners in supermax units are confined alone in single cells about the size of a small bathroom (in some cases even smaller). The cell contains only the most basic of accommodations, generally a slab of metal protruding from the wall as a bed, a toilet and sink in the corner, and possibly a desk. Prisoners describe either an “eerie silence” in the

units stemming from the cells being entirely soundproof, or the opposite—a din of constant noise at all hours. Many cells have no windows and it is impossible to know whether it is night or day. Prisoners often complain of the lights being left on 24 hours per day, causing them to lose track of time entirely.

Contact with other human beings is extremely limited. Prisoners eat alone in their cells and take their recreation alone in a cage or concrete room that is open to the sky at the very top, and in most cases is covered with wire. Most interactions with staff occur through a slot in the steel door through which food and other items are passed to the prisoner. Cell “shakedowns” are common, and prisoners are routinely strip searched before leaving their cells for any reason and again upon their return. These searches frequently include body cavity searches. Educational or rehabilitative programming is rare. They are not permitted to hold prison jobs. Visits, telephone calls, and mail are severely restricted and reading material is censored.

Prisoners are placed in these units for a variety of reasons, most commonly as punishment for major rule violations, as a method of separation during an investigation, or as a mechanism for behavior modification. In many states, including Arizona, prisoners are also confined to these units based on factors other than their behavior. For example, prisoners placed in protective custody due to death threats from other prisoners are frequently housed in supermax “for their own protection.” In some states, all death row prisoners are housed in supermax units, meaning that even if the individual prisoner has a clean prison disciplinary history, he will be housed in the most severe environment possible solely because of his sentence. Finally, most prisoners who are found to belong to a Security Threat Group or prison gang will be housed in a supermax.

For those who are being punished for infractions or are placed in isolation for “administrative reasons” such as membership in a prison gang, there is concern regarding the lack of due process protections being applied to the decision to place people in supermax. According to Human Rights Watch, the decision to isolate a prisoner in some cases may be made without any formal proceeding, and the period of isolation often has no defined endpoint. Because confinement in a control unit is an administrative decision made by prison authorities rather than the courts, prisoners’ constitutional rights to due process of law are often ignored.

Why Investigate Supermax Facilities?

Human beings are social animals who thrive on human contact and relationships. We understand ourselves and our environment partially through the lens of culture and collective behaviors. Unsurprisingly, people respond negatively to environments in which human interaction is severely limited. Most people are aware of the research documenting the arrested development of infants in orphanages in which they were rarely held or cuddled. Studies have likewise documented how adults in sensory deprivation environments such as prisoners of war or scientists living in extremely remote areas begin to develop a discrete set of emotional and psychological symptoms.

By the same token, prisoners in isolation units develop what is known as Special Housing Unit Syndrome or SHU Syndrome. Effects include some combination of the following symptoms: visual and auditory hallucinations, hypersensitivity to noise and touch, insomnia, paranoia, uncontrollable feelings of rage and fear, and distortions of time and perception. Many prisoners who have lived through such experiences develop post-traumatic stress disorder, which increases the risk of suicide and greatly impedes the process of re-entry into general prison populations and, ultimately, community life.

Because people of color and poor people are disproportionately represented in the U.S. prison system, a large number of people who have experienced prison isolation return to poor communities which already face tremendous challenges: a lack of infrastructure, few job opportunities, and higher crime rates. The far-reaching impacts of prison isolation make it more than a problem of prison conditions. It has become a formidable community problem.

Isolation and Recidivism

There is something intrinsically illogical for any correctional system to become so preoccupied with control and punishment as to lose sight of the fact that virtually all of the inmates in its custody will someday be released back into our communities.

— Stuart Grassian, "The Impact of Isolation."

Studies of recidivism for any correctional program have long been the trusted form of measurement when evaluating its effectiveness. AFSC's request for statistical data on the recidivism rate of prisoners released from long-term solitary confinement units in all three Arizona systems were denied despite repeated phone calls and letters. In some cases, no

explanation was given. At other times we were told that this important evaluative data is simply not compiled.

In 2002, the U.S. Bureau of Justice's Bureau of Justice Statistics found that the overall re-arrest rate for people leaving prison was 67.5 percent. In Arizona, the general recidivism rate lies between 24.5 to 56 percent, depending on how it is measured and by whom.² The problems most former prisoners face in reintegrating after incarceration are well documented: lack of rehabilitative programming or preparation for release, low levels of education and job skills, and discrimination in housing and employment against people with felony convictions all work together to erect significant obstacles to successful re-entry. It is important to study how the traumatic experience of long term solitary confinement may add to these already significant barriers to community reintegration.

The Arizona Department of Corrections' 2005 *Arizona Inmate Program Evaluation* provides further insight. It notes that a "high program involvement will reduce recidivism by 35 percent or more." Such programs include work, substance abuse classes, vocational training, and education—all of which are unavailable to prisoners in ADC's supermax units.

In David Lovell and Clark Johnson's Washington State study on recidivism rates among supermax prisoners, researchers found a distinct correlation between immediate release from supermax conditions and increased recidivism.³ Also, prisoners with mental illness were much more likely to recidivate. As is detailed in the Mental Health section of this report, the rate of mental illness in SMU I and II is nearly 10 percent higher than that of the general Arizona prisoner population.

Because 96 percent of all Arizona prisoners will ultimately be released, what happens to each prisoner during his or her stay in a correctional facility is a matter of importance to every Arizona resident. Sullivan's "In U.S. Prisons Thousands Spend Years in Isolation" segment on NPR underscored this point: "Almost 95 percent of the inmates in isolation in this country will be released back to the public one day. Many of them will receive little, if any, help with the transition."

² The 24.5% figure is from the Arizona Department of Corrections, "Arizona Inmate Program Evaluation," February 2005, accessed at: http://www.azcorrections.gov/adcc/reports/recidivism_2005.asp. It is a measure of people returned to ADC custody for new felony convictions between 1990 and '99, and does not count arrests, misdemeanor convictions, jail time, or return to ADC custody for parole or probation violations. The 56% figure is from Pima Prevention Partnership's "Parental Incarceration: Crisis for Children," Preliminary Needs Assessment, June 2002.

³ David Lovell and Clark Johnson, *Felony and Violent Recidivism Among Supermax Prison Inmates in Washington State*. Pilot Study.

AFSC believes placement in a supermax setting for any length of time is a factor contributing to a higher rate of recidivism. Any taxpayer-funded state or federal correctional system must be accountable for the impacts its policies and practices have on public safety. They should provide greater transparency and access to data in order to evaluate the overall effectiveness of these facilities.

Violations of Human Rights

In 2004, when the mistreatment of detainees in US prisons in Iraq surfaced, much of the nation was shocked to hear accounts of sexual humiliation, attack dogs, and other forms of torture. President Bush addressed the public saying, "What took place in that prison does not represent the America that I know." Sadly, for thousands of people confined to solitary confinement units in the United States, it is an America that they know all too well.

Long-term isolation as it is currently employed in supermax prisons fits the definition of torture as set forth in international human rights standards, and thus constitutes a violation of human rights law. The U.N. Convention Against Torture, which was ratified by the United States, defines torture as any state-sanctioned act "by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person" for information, punishment, intimidation, or for a reason based on discrimination." In addition, the U.N. Standard Minimum Rules for the Treatment of Prisoners makes it clear that "instruments of restraint, such as handcuffs, chains or irons, shall never be applied as punishment," an edict that this report will show is not being heeded in some Arizona facilities.

United Nations committees have specifically cited US supermax prison units for violations of international human rights law. In 1995, a U.N. report criticized the United States for operating "inhuman and degrading" prisons, and specifically cited detention facilities such as California's Pelican Bay State Prison. More recently, in May of 2000, the U.N. Committee Against Torture called the "excessively harsh regime" of supermax prisons a violation of the Convention Against Torture and made it clear that the practice is widespread in the U.S.

Devices of Torture

In addition to the isolation conditions themselves, there is added concern about abuse in these units involving physical restraints, chemical agents, stun guns, and other forms of cruelty. From the time AFSC began monitoring control units, reports from prisoners have indicated that they are operated with an extreme level of brutality. According to Kamel and Kerness, reports from Arizona state prisons stood out early on, with one describing a

prisoner being shocked with a taser twenty-two times before dying. Others described prisoners being exposed to pepper spray and then made to lie down on the ground outdoors in the Arizona sun, so that the heat and sweat reactivated the chemical agent.

Tasers and pepper spray are frequently held up as examples of more humane, “non-lethal” weapons that allow guards a wider range of use of force. However, concerns have been raised about the harmful effects of these weapons, as well as the tendency for them to be used inappropriately. In March of 2005, a prominent forensic engineer made waves within the law enforcement community by releasing a report alleging that shocks from tasers could cause delayed cardiac arrest, and implying that the use of the weapon may have contributed to an untold number of deaths. He specifically highlighted the risks to law enforcement personnel who utilize tasers, most of whom have undergone training that involves subjecting trainees to a jolt from the weapon in order to educate them about its effects. In Robert Anglen’s *Arizona Republic* article “Scrutiny Mounting on Taser Use,” an engineer, James Ruggieri, concluded that the taser “should not be touted as a harmless device.”

In January of 2006, the *Arizona Republic* initiated a special investigation into cases of death following a taser strike during police actions. Through computer searches, autopsy reports, police reports, and information provided by the Taser corporation, Anglen uncovered 167 cases of death after police taser strikes in the United States and Canada since 1999. Seven of these occurred in Arizona, all of them in the Phoenix area. In 27 of the total 167 cases, medical examiners concluded that the taser was a cause, contributing factor, or could not be ruled out as the cause of death (Anglen, 2006). The *Arizona Republic* did not investigate use of the taser by jail or other correctional employees, but based on the questions raised by the Department of Justice (DOJ) and Amnesty International, there is ample reason for concern.

Pepper spray has become equally ubiquitous in correctional settings. The substance “inflames the mucous membranes, causing closing of the eyes, coughing, gagging, shortness of breath, and an acute burning sensation on the skin and inside the nose and mouth” (Cusac, 2000). The American Civil Liberties Union (ACLU) has declared that “pepper spray weapons—both their active ingredients and their chemical solvents and propellants—may have damaging short and long-term effects on a number of body systems and functions. These weapons are particularly dangerous for people with compromised health status and for young people.”

Physical restraints are another source of concern, particularly because they have led to several high-profile wrongful death cases. The restraint chair previously employed in the Maricopa County Jails has received a particularly high degree of scrutiny, owing to numerous highly publicized cases of death and serious injury resulting from its misuse. The MCSO finally discontinued its use in 2003, after the county was forced to pay millions in jury awards and settlements for wrongful death suits.

It is clear that all of these interventions are employed against prisoners of every security level throughout adult prisons and jails, not just in the supermax units. Yet the sheer preponderance of cases of abuse in the general population involving these measures raises serious concerns about those in solitary confinement. If correctional operators such as the Maricopa County Sheriff's Office have been investigated for improper use of these devices on general population prisoners in settings as mundane as an intake facility, it is that much more imperative to question what takes place in the relative privacy of an isolation unit.

The secluded nature of these facilities, coupled with the perception that they are populated with the "worst of the worst," leads to a tendency for the public and elected officials to look the other way, deferring to the claims of management that such measures are necessary to maintain the overall safety of these units.

III. THE MENTAL HEALTH OF PRISONERS IN SOLITARY CONFINEMENT

The issue of mental health permeates every aspect of our investigation into long-term solitary confinement. For each distinct population—juveniles, pre-trial jail detainees, and state prisoners—mental health symptoms and treatment were a primary concern. This is because isolation units both select for and exacerbate mental illnesses. On the front end, people with mental illnesses are more likely to wind up in supermax, because their illness causes them to repeatedly break prison rules, resulting in a gradual increase in their security classification. On the back end, the conditions of confinement in long-term isolation often worsen existing mental illnesses and can actually produce psychological symptoms in otherwise healthy people.

Prisoners with Mental Illnesses Are More Likely to Be Placed in Isolation

As the mental health care system in the United States has gradually had funds cut over the last few decades, prisons and jails have become de facto mental health facilities, overflowing with undiagnosed, misdiagnosed, and untreated people. Correctional settings provide a highly structured environment with numerous, relatively inflexible rules and strict consequences when those rules are not followed. Some mentally ill prisoners cannot fully comprehend the nature of these expectations or the consequences for certain behaviors. Depending on the diagnosis, an individual may not have complete control over his or her behavior.

Guards often lack the training to recognize symptoms of mental illnesses, and often mislabel such behavior as intentional insubordination. There is also a tendency to assume that most prisoners are malingering or faking psychological symptoms in order to manipulate the system. Either scenario can result in the guard writing the prisoner a 'ticket' for breaking the rules. In most correctional facilities, a certain number of such minor tickets in a given time frame can add up to a major ticket, which increases the prisoner's security score. The security score is essentially a measurement of the prisoner's level of dangerousness, and thus is the basis for determining what facility he or she is housed in. If a prisoner receives enough major tickets, his or her security score ultimately rises to the level justifying housing in the most restrictive environment possible—the supermax.

Statistical evidence appears to confirm suspicions that there is a concentration of mentally ill prisoners in solitary confinement units. One in four prisoners (26 percent) held in the

Arizona State Department of Corrections' Special Management Units is mentally ill. By comparison, the incidence of mental illness in the general state prisoner population is 16.8 percent. According to Amy Silverman's article "Kid Row," a mental health professional working for the Arizona Department of Juvenile Corrections estimated that 25 to 35 percent of the youth in those facilities have mental health problems, with up to 50 percent taking psychotropic medications (the article does not explain how there could be up to 25 percent who would be taking such medications *without* a diagnosis). The same article cites a national projection from the National Association of State Mental Health Program Directors that estimates that 50 to 75 percent of incarcerated youth are mentally ill.

Unfortunately, the Maricopa County Sheriff's Office did not respond to our requests for statistics on prisoners with mental illness confined in the Maricopa County Jail's supermax. When asked, a lieutenant responded that mental health needs are not considered in the classification process that determines placement in close custody.

In all three of the facilities we investigated, there were concerns raised by prisoners, their families, and outside monitors about the inadequacy of mental health care provided to prisoners. If these institutional problems were addressed, it would likely reduce the number of people who are sent to supermax facilities. For example, we heard many reports of correctional systems not recognizing a prisoner's pre-incarceration mental health diagnosis and treatment regimen. This causes disruption of treatment (e.g., not receiving medication), which results in a recurrence of mental health symptoms. These symptoms lead the prisoner to behave strangely, get disciplinary tickets, and have a higher security score. We also heard many complaints about delivery of psychiatric medications, including medications arriving late by several days or even weeks, or not being delivered at all. Proper medication can reduce symptoms of mental illness that cause behavioral problems. Addressing this problem would likely have a significant impact on the number of mentally ill prisoners being sent to supermax facilities.

Isolation Creates and Compounds Mental Health Issues

Science tells us that sensory deprivation and isolation is very injurious to people, is very toxic, so people with serious mental illness going into a 23-hour (a day) lock-down facility for months, sometimes years, they become much sicker. They become a much greater risk to harm themselves or somebody else.

— Bob Corliss, National Alliance on Mental Illness (qtd in Matthews)

"It has in fact long been known," explained Stuart Grassian, a Harvard University psychiatrist, in his testimony to the Commission on Safety and Abuse in United States Prisons, "that severe restriction of environmental and social stimulation has a profoundly deleterious effect on mental functioning." Grassian goes on to explain that these effects have been a serious concern in other isolation situations such as "polar and submarine expeditions, and in preparations for space travel." In simple terms, any solitary environment (even those that are willfully chosen) is psychologically dangerous for a human being. Yet within the paradigm of corrections, it is increasingly employed with a growing diversity of populations.

It does not take medical training to understand that a person with a mental illness will rarely if ever benefit by having little or no meaningful human contact, especially if it is *forced* isolation. Further, there is a wealth of well-recognized research that clearly demonstrates how solitary confinement for any extended amount of time can cause and exacerbate mental illness.

Terry Kupers, a professor at the Wright Institute of Berkley, is explicit in his testimony regarding the mental health impacts on prisoners held in supermax conditions.⁴ He says that confinement of "prisoners suffering from serious mental illnesses, or who are prone to serious mental illness or suicide, is an extreme hazard to their mental health and well-being. It causes irreparable emotional damage and psychiatric disability as well an extreme mental anguish and suffering, and in some cases presents a risk of death by suicide."

According to psychologist Craig Haney, the assertion that solitary confinement results in "harmful consequences" and "negative psychological effects" is based upon studies and evidence spanning four decades and multiple continents (*Ill-Equipped*, 2003). Put succinctly, isolation is not healthy for any human being, regardless of the reason behind his or her isolation.

Grassian first reported on this fact over twenty years ago, in November 1983 in the *American Journal of Psychiatry*. Grassian himself was originally a skeptic that there would be any significant findings and specifically tailored his inquiry to be as open-ended as possible so as not to "suggest possible symptoms" to the subjects of his study. In an interview with Leo Grieb, he remarked,

⁴ Kupers, Terry. "Declaration of Terry A. Kupers, M.D., M.S.P." United States District Court for the Western District of Wisconsin, Case No. 00-C-421-C. August 9, 2001.

I was pretty cynical when I was brought into it, I didn't think I was going to find anything. But I did find something and it was shocking to see what I found – that these inmates were so ill, that they all tended to be ill in very similar kinds of ways, and they were so frightened of what was happening to them that they weren't exaggerating their illness. They were tending to minimize it, to deny it. They were scared of it.

The following testimony from a prisoner in SMU II is a haunting echo of Grassian's assessment. It was written by a prisoner who has spent the last six years in solitary confinement and has been diagnosed with borderline personality disorder and post-traumatic stress disorder (PTSD).

We are routinely housed around individuals with serious mental health issues who scream, kick the cell doors, throw feces, urine, blood etc. . . . That said, after a couple of years here you begin to lose your grip on reality, and become really paranoid. In that regard, I know this place is having a negative effect on me, which scares me a lot.⁵

Suicides in Supermax

Given the high concentration of people with mental illness in long-term isolation, and the impact that those conditions of confinement have on an individual's psychological well-being, it is perhaps unsurprising that such facilities would have a high rate of suicide attempts. In California and Texas, reports cited by Kevin Johnson in *USA Today* link rising suicide rates to placement of prisoners in solitary confinement.

The findings point to prisoner safety and mental health as being an increasingly urgent problem for corrections systems using long-term solitary confinement. Johnson reports that California, which has the largest state prison system in the nation, saw a total of 41 suicides just in the last year. A full 69 percent of those suicides took place in solitary confinement cells. *USA Today* noted that Texas is not far behind with 24 suicides last year. Texas prisons also saw a disturbing increase in suicide *attempts*: 652 last year, compared to 559 in 2005, a 17 percent increase.

As detailed in other sections of this report, these trends are mirrored in various Arizona facilities. In 2002, three juvenile suicides in less than one year prompted an investigation by the U.S. Department of Justice into conditions within the Arizona Department of Juvenile Corrections (ADJC). Alexander Acosta, Assistant Attorney General wrote in a letter to Governor Janet Napolitano that one of the suicides that occurred in ADJC involved a youth whose unit had been locked down for over thirty days.

⁵ Prisoner testimony 008, Personal communication to AFSC, 2006

Mental illness in solitary confinement: A tale of two states

Roger Neumann of the *Star-Gazette* reported on the 2006 legislative session of the New York Assembly's historic effort to ban the practice of placing mentally ill prisoners in solitary confinement. Reports on the disproportionate number of mentally ill prisoners in solitary confinement and the shocking revelation that 53 percent of mentally ill inmates attempted suicide while in supermax facilities fueled the effort to end isolation for the mentally ill through progressive legislation.

Neumann reported that the bill sought to create alternative housing areas for mentally ill prisoners. Upholding the principle of placing prisoner treatment under the control of mental health care professionals, the bill mandated additional hiring of mental health staff and proper training for corrections officers. If approved, the bill would have made New York the eleventh state to stop housing mentally ill prisoners in solitary confinement.

Sadly, in August 2006 the effort came to naught when Governor Pataki vetoed the bill, arguing "the bill restricts prison officials' ability to control and segregate violent inmates" (Milgrim, 2006). This response is less than surprising when viewed in light of the fact that Governor Pataki's administration expanded New York's supermax facilities substantially between 1998 and 2000.

In 2003, Human Rights Watch noted that in New York "23 percent of all prisoners in special housing units [equivalent to supermax] are on the mental health caseload." However, by May 2006, in the *New York Times*, Terry Kupers reported he found that as many as 64 percent of SHUs prisoners were mentally ill (qtd in Pfeiffer). In Arizona, according to an interview with an ADC psychologist, Trezize, on November 22, 2006, a mental health care staff of nine serves a population of more than 1,600 in SMU I and II. Current figures identify 26 percent of this population as mentally ill. Would careful inspection by an independent investigator reveal a similar discrepancy between Arizona's official mental health caseload and an accurate accounting of how many mentally ill prisoners are in solitary confinement? At present, the public does not have access to statistics on suicides in isolation in Arizona prisons. Were these figures to be released, would there be a similar groundswell for reform that occurred in New York?

Despite written requests, neither the Arizona Department of Corrections nor the Maricopa County Sheriff's Office (MCSO) would release data on prisoner suicides. According to Christopher J. Murnola's research from the U.S. Bureau of Justice Statistics, there were six suicides in the Arizona state prison system in 2001-02, reflecting a suicide mortality rate of 11 per 100,000 prisoners. Interestingly, the Maricopa County Jails had 10 suicides between 2000 and 2002, a suicide rate of 45 per 100,000 prisoners. This reflects a national trend in which the suicide rate in local jails was over three times the rate in state prisons. The BJS does not specify how many of these suicides occurred while prisoners were kept in isolation, and such statistics were not made available to AFSC.

However, the National Center on Institutions and Alternatives published accounts that suggest a link between isolation and prisoner suicide in at least once case from a Maricopa County jail:

In late January 2003, Maricopa County agreed to pay a Mesa family \$175,000 in a wrongful death settlement after a family member committed suicide in a Maricopa County Jail. According to the lawsuit, David Hyslop was arrested for DWI and taken to the Maricopa County Jail. He suffered from depression and repeatedly expressed suicidal ideation during confinement. He was repeatedly sent to the jail's psychiatric unit, given medication and limited treatment, and moved back into the general population. At one point, agitated because he was not receiving proper care, Hyslop punched a cell wall. As a result, he was placed in isolation. Shortly thereafter on July 4, 1997, David Hyslop tied one end of a bed sheet around his neck and attached the other end to a window bar and hung himself (National Center, 2003).

Recidivism and Mental Illness

Lovell and Johnson's study of supermax prisoners and recidivism in Washington State revealed that prisoners with mental illness were *five times more likely* to be placed in supermax conditions than other prisoners. The report goes on to say that released mentally ill prisoners were much more likely to commit new felonies than were other released prisoners. This raises two critical and obvious questions. Why would corrections authorities place a mentally ill person in solitary confinement? Why would the authorities release these prisoners from solitary confinement to the community with no transitional time or assistance?

One former SMU I prisoner spent two years and two months in solitary confinement. Five of those months, he spent in the super-restrictive Violence Control Unit. About his release from prison, he says, "I was in SMU I up until the day I got out. There was no transition." He goes on to speak of the re-entry process:

The release process is probably the most detrimental to people. It's a horrible set up for failure upon getting released. They don't have anything set up for you. Most people if you're in the situation I was in where most transitional homes will refuse you, your [Parole Officer] will set you up with a homeless shelter, which is asking for trouble.⁶

The Arizona Department of Corrections told AFSC that it does not maintain statistical data on the recidivism rate of mentally ill persons or those released from SMU I & II. Yet this is arguably the most important measure of the effectiveness of any correctional practice. Every day, former prisoners are relearning how to navigate the tasks required to regain a

⁶ Prisoner testimony 047, Personal communication to AFSC 2006

life in the community. These tasks are difficult enough for those who spent their time on a lower security yard in the general prison population. But entering society directly from a bathroom-sized cell, having had little human contact for a year or more, is a recipe for disaster. If findings from the Washington State study are any indication, there is a high likelihood that there is a correlation between supermax confinement and increased recidivism.

IV. ARIZONA DEPARTMENT OF CORRECTIONS AND SMUS

The Arizona Department of Corrections (ADC) operates two full facilities built exclusively for the long-term isolation of prisoners; Secure Management Units (SMU) I and II, both located within the Eyman Complex in Florence, Arizona. The effects and conditions are the same in both SMU I and II. The ADC's website states that there are 1,728 cells within those two units. They are the most restrictive that exist in Arizona, an example of the most extreme form of punishment the state has to offer.

Of the sixty-eight prisoners in SMU I and II from whom AFSC has received testimony, the average time spent in solitary confinement is just over five years. Correspondingly, NPR found that most prisoners in solitary confinement throughout the United States "have been there for more than five years" (Sullivan, "In U.S. Prisons, 2006).

These units are heralded as state-of-the-art prison facilities able to effectively manage security risks and violent prisoners – the "worst of the worst," as they are commonly viewed. The reality of who is housed in these units, how they got there, and the impact such confinement has on the individual is a much more complicated tale.

Who Is in Supermax?

Despite the perception that SMU I and II are filled with prisoners who have assaulted guards or other prisoners, the real makeup of these units is more diverse. For example, all death row prisoners are held in SMU II, regardless of their conduct while incarcerated. Indeed, it is widely accepted in correctional circles that lifers and death row prisoners are often the least disruptive of prisoners, owing to a combination of factors including age and length of time spent in prison. Death row prisoners account for 122 of the 713 total prisoners in that unit according to statistics provided by the ADC (Dolny, 2006).

Perhaps what is more surprising is the policy of holding prisoners in protective segregation in SMU I. Protective segregation applies to prisoners who are in danger

of being assaulted by other prisoners due to the nature of their conviction, for example sex offenders, or prisoners who refuse to participate in gang activity, or are perceived as an informant or "snitch". The rationale for placing such prisoners in SMU I is that contact with other prisoners puts them at risk and should be as limited as possible. The net effect,

however, is that we are subjecting these prisoners to conditions that we apply as punishment for other prisoners, under the guise of keeping them safe. There are 139 such prisoners held in SMUI as of this writing (Dolny, 2006).

Security Threat Groups in SMU

A Security Threat Group (STG) is the title the ADC uses to describe what is generally considered a prison gang. The ADC has a specific policy and procedure regarding the process of certifying a group as an official STG and for validating an individual as a member of a Security Threat Group. According to the ADC webpage, there are eight certified STG's in Arizona, and five groups being monitored to determine whether they are a security threat.

The validation process utilizes a point system to evaluate such indicators as tattoos, use of symbolism, and associations or contacts with others who are believed to be members of an STG. The ADC website also states that the system relies on the perceptions of outside agencies, including media reports and court documents.

While such organizations have been a fixture of prison society for decades, the STG label can be misleading for a variety of reasons. Magnani and Wray state that often the evidence used to identify a person as a member of a STG inappropriately relies on cultural, social, and racial identifiers as a basis for official STG validation. For example, being a Mexican-American from a particular town in Southern California is sometimes enough for the Department of Corrections to label someone as a suspected STG member.

The African American Council is one group pending certification, identified by its "Black Muslim/Islamic influence," though the ADC website admits it "may be difficult to certify due to religious base." For the certified STG named the Warrior Society the

ADC website explains that this group may have originally formed because Native Americans "were often victimized by other [prisoners]."

In the ADC, 91 percent (205 out of 225) of all validated STG members are held in SMU I or II. Prisoners who are *suspected* STG members are almost twice as likely as other prisoners to be placed in SMU I or II. Overall, in SMU I and II, 49.7 percent of all the prisoners held there were either validated or suspected members of a STG as of October 31, 2006.

Do these overwhelming statistics indicate that Arizona has an exceptionally high incidence of prison gangs? A closer look reveals a much murkier, chicken-and-egg approach to gang management. Both SMU I and II were built during the nineties, when state correctional departments across the country were adopting strict management rules from the Federal Bureau of Prisons for STGs. In many cases, there was federal money available for state systems to build new high-security prison beds.

Despite a complete lack of evidence that the solitary confinement of STG members is necessary or effective, Magnani and Wray note that the trend continues today in the ADC. Sullivan's 2006 segment on NPR calls into question the justification for such policies: "officials say most inmates in the units are members of gangs that are making their prisons too risky for the officers and the other inmates. But over the years, the violence rates in the U.S. prisons have not decreased, nor has the strength of the gangs."

The prevalence of mental illness in ADC's supermax facilities is shocking. According to statistics provided by the Arizona Department of Corrections (Dolny, 2006), **one in four prisoners (26 percent) held in SMU I and II is mentally ill, a rate nearly 10 percent higher than that of the general prison population.** Many of these prisoners are considered "seriously and persistently mentally ill", meaning that even with proper medications they may experience difficulty within the general prison population.

The cruel irony of the STG policy is that, once validated by the ADC as a member of a STG, the only way to avoid the punishment of solitary confinement is to "renounce and debrief." In other words, confess to being a member of a gang and inform the ADC of other STG member activities. Of course, being an informant brings with it guaranteed retaliation from other STG members. The result is a catch-22, in which the prisoner who follows this procedure would have to be placed in Protective Segregation, with effectively the same solitary confinement conditions. Depending on how mental illness is defined and by whom, the number may be much higher. This figure counts only those prisoners assigned a mental health score of three or higher. According to the ADC Public Objective Classification Custody Manual, a mental health score of three is applied to someone who "has a recognized need for (a) psychiatric medication and or psychiatric monitoring and/or (b) psychological counseling or therapy." A score of four or five successively requires more supervision and more intensive medications.

Interestingly, however, a mental health score of two does *not* mean that the person is entirely free of mental illness. The ADC manual states that someone classified as level two "has a history of mental health problems or treatment, but has no current recognized need for psychotropic medication, psychiatric monitoring, or psychological counseling or therapy." Given the research suggesting that solitary confinement can produce and exacerbate mental health issues, it is likely that ADC's figure is underestimating the true extent of mental illness in its supermax units.

Conditions in SMU I & II

While in SMU I or II, prisoners live nearly 24 hours a day within the confines of one bathroom-sized cell. Both facilities' sole function is to keep prisoners locked down for long periods of time, often resulting in prisoners serving out the entire length of their sentences in solitary confinement. Meals are eaten in solitude, delivered through a slot in the metal door through which 95 percent of their human interactions occur. The meals have fewer

calories than the average prison meal, since the opportunity for physical activity is so limited, and prisoners complain of feeling constantly hungry.

The food is a common source of complaints from prisoners, with abundant stories of rotten, expired food; cockroaches on food trays; and miniscule portions. Many prisoners report dramatic weight loss, sometimes up to twenty or thirty pounds. According to prisoner testimony, there is constant noise at all times of the day and night. At the same time, there is absolutely no meaningful human contact, often leaving prisoners with conflicting feelings of never having privacy and yet always being alone. Visits are infrequent and often not allowed at all. When they do occur, they are non-contact, meaning the visitor is separated from the prisoner by a thick plexi-glass window. The only person a prisoner sees on a regular basis is a guard, and physical interactions usually consist of strip-searches, hand-cuffing and shackling, and forced-cell extractions.

AFSC received numerous prisoner complaints of harassment at the hands of correctional officers, from waking prisoners up in the middle of the night to deliver their mail, to offering to provide a prisoner with a razor blade in order to kill himself. Many prisoners report that their mail is held or never delivered and that their cells are searched repeatedly without cause or justification. As the guards have significant autonomy and power over the prisoners' day-to-day life, the negative impact of such harassment is significant.

Recreation time, "when the guard doesn't pass you by or the guards have not come up with some reason why you don't get it [that day],"⁷ takes place individually, in an approximately twenty by thirty foot area with high brick walls, no direct sunlight, and no equipment. When the inquiry for this report began, prisoners were only given three hours of recreation time per week on three different days. Recently, this has been increased to a total of six hours per week. However, we received numerous reports that recreation time is frequently cancelled or shortened due to staffing shortages or other reasons. Prisoners report that it is common for guards to walk right past their cells without offering them the opportunity to sign up for recreation time that day. Because recreation time is the only regular opportunity to get out of the confines of a segregation cell, it is vitally important to the mental and physical health of prisoners.

Based upon a wealth of prisoner testimony and correspondence, AFSC has serious concerns about the sanitation of both the cells and shower facilities in SMU I and II. Prisoners

⁷ Prisoner testimony 047, Personal communication to AFSC, 2006

complain that showers are often not properly cleaned, even when they are visibly filthy and other prisoners have urinated on the floor. Prisoners also report being left locked in the shower for hours at a time. We have received reports of untreated staph infections, and prisoners suffering from painful, open sores for months at a time. Alan Gustafson reported on the rise of Hepatitis C in the *New Statesman Journal*. Given that 20 to 60 percent of prisoners have tested positive for Hepatitis C, the public health implications of these unsanitary conditions are quite grave.

The “Violence Control Unit” (VCU)

According to prisoner testimony, the most restrictive consequence for failing to comply with the rules is placement in the Violence Control Unit (VCU). One former prisoner recalls correctional officers on numerous occasions saying, “Act like that, and I’m going to send you to VCU.” SMU I and II each have a VCU which is supposedly reserved for prisoners who are assaultive and otherwise unmanageable. VCU provides the bare minimum to the prisoner. No televisions or radios are allowed. A minimal number of books are allowed in the cell at one time. Prisoners are denied visitation and phone privileges.

It is common knowledge among prisoners that the VCU is filled with prisoners suffering from severe mental distress. Some prisoners scream and pound on the doors and walls at all hours of the day and night. Others are in such a state of crisis that they may resort to smearing feces, or throwing urine and sometimes blood at guards. According to prisoners and one ADC Correctional Officer who were interviewed, the odor of urine and feces in these units can be overwhelming.

Prisoners report that the minimum amount of time a person will stay in the VCU is ninety days. The reality is that it will likely be longer due to lack of bed space and the difficulty of moving prisoners back into SMU I or II. Shockingly, even though both guards and prisoners have referred in great detail to VCUs, no prisoner that AFSC is in contact with had ever seen any documentation of a policy regarding the VCU.⁸ AFSC’s attempts to obtain copies of the policies pertaining to the use of the VCU were unsuccessful.

The fact that the ADC operates such a restrictive prison environment without supplying information about its existence or access to the policies governing its use is of grave concern. We are particularly curious to know whether there is a grievance or appeals process applied to the decisions to place prisoners in this unit. Given that the VCU’s are the supermax within the supermax, our generalized concerns about the impacts of solitary confinement conditions are heightened in the case of such extreme confinement.

⁸ Prisoner testimony 047, Personal communication to AFSC, 2006

AFSC received numerous reports of a cockroach infestation in SMU I stretching over a period of at least six months. Complaints include roaches falling from the ceiling at night onto sleeping prisoners, and prisoners discovering them in their hair, food, and mattresses. While the ADC has responded that there is a monthly regimen of spraying in the cells, prisoners have reported that it either does not take place or is so limited in scope that it is ineffective in eliminating the cockroaches.

One Prisoner's Story of Solitary Confinement

AFSC received a letter dated July 31, 2006, from a prisoner we will call James who complained of a roach infestation in his cell and wing of SMU I. Through seven months of correspondence, this problem persisted amidst assurances by the ADC that the monthly spraying regiment was sufficient to eliminate the cockroaches that he continually found in his bed, food, hair, and throughout his cell. In his frequent letters, James has also documented denial of medical care, harassment, severe mental strain, problems with his mail, sleep deprivation, constant bothersome noise, and the use of dirty water to clean his cell. Here he describes the lack of medical care over the course of several months and the physical effects of the prison diet:

After ten or twelve days here I received a severe skin infection that I still have as of August 26, 2006 almost seven months now – after four or five months of blaming me for [the infection] not going away [the ADC] finally gave me the right antibiotics and in ten days, 99 percent of my sores were gone – it took me two months or so to get aspirin for my headache. I immediately dropped twenty pounds on arriving here. The starvation diet is pretty bad. I arrived at 185 pounds, I now weigh 155 pounds in chains which is about 150 pounds without chains – I am six foot two and NOT small – I can see my ribs.⁹

James also detailed on numerous occasions what he believes to be retaliation for complaining about these problems. At times he has been denied phone calls and mail privileges, been subject to unnecessary strip searches, and refused toilet paper. He has been strapped down and forcibly shaved at least twice. Once, the Deputy Warden was present and involved in the forced shaving.

The conditions of his confinement were so consistently unbearable that in December 2006, James attempted to take his own life. To the knowledge of the AFSC, he has not been seen by mental health staff, or recognized to be mentally ill by the ADC.

⁹ Prisoner testimony 069, Personal communication to AFSC, 2006-2007

Mental Health Treatment in ADC Supermax Units

Perhaps nowhere in corrections is the contradiction between the paradigm of security and that of mental health more apparent than in supermax settings. Whatever the correctional justification for such facilities, it is clear they were not designed with their mental health impact in mind.

—Human Rights Watch, 2003.

The burden of appropriate and effective mental health care for prisoners in supermax rests on the ADC. In numerous phone conversations with various ADC officials, AFSC staff has been assured that the care of prisoners is their duty and responsibility, and it is taken very seriously. However, it is the ADC's sole discretion to place any individual in solitary confinement, and in the view of the AFSC, this decision puts at risk the mental health of each person so confined. As of October 31, 2006, 4.6 percent of the entire Arizona prison population was in long-term solitary confinement. Of the 67 questionnaires completed and returned to the AFSC over the course of a year, 23 prisoners reported some form of mental health diagnosis, demonstrating about a 7 percent higher rate of mental illness than what the ADC has reported. Although the respondents constituted a self-selected pool of SMU prisoners as it was voluntary to complete the questions, this percentage is sufficiently higher and cause for concern. Realizing the immensity of the task of caring for people with mental illness, the possibility that the numbers are indeed that much higher is alarming.

The ADC psychologist Trezise notes that correctional officers (COs) are given an initial eight-hour training on how to identify the difference between non-cooperation due to prisoner choice and actions because of a mental illness. This training is said to be refreshed once a year, though not by a medical professional, but by a "qualified correctional officer". The high concentration of people with mental illness in supermax units would indicate either that this training is inadequate or that the conditions in those units are producing psychological problems in otherwise mentally healthy prisoners, or some combination of the two.

A related concern is the lack of qualified mental health care providers in these units. For the 1,623 prisoners in SMU I and II, there are only nine mental health staff. In SMU I there are only two mental health staff, and they are only available upon request. Trezise said that if the prisoner's mental health complaint is not deemed an emergency, they will likely wait a week to be seen by psychology staff. Even if these units were providing the highest level of programming, it is doubtful that nine mental health staff could provide adequate care for over 1,600 prisoners.

As discussed earlier in this report, the concept of consequences is the basis for prison operation and management in Arizona. The irony is that, in a supermax setting, the prisoner has already arrived at the highest level of punishment possible. Therefore, the consequence for failure to comply with the rules is additional time in SMU—the very place that may be creating the behavior for which they are being punished. These increased restrictions may exacerbate the person’s condition to an extremely dangerous point, in a downward spiral of worsening mental health.

An Arizona state prisoner, age twenty-nine, has spent half of the twelve years he has been in prison in solitary confinement. He expected to be released in less than two years, but due to changes in the prison’s classification system, will very likely spend the rest of his sentence at SMU II. Here he describes how SMU II has affected him:

When I came to prison I was seventeen. SMU II took me down a dark dark hole. I know SMU II made me numb, to where I could care less about consequences. Paranoid, feeling like they’re messing with me even if it was only my imagination. I grind my teeth and clench my teeth while I hold in my breath in flashes of anger. No outside stimulus whatsoever. I go a day or so without sleeping. I’m constantly thinking about what other people are thinking of me. I always feel when I’m escorted to [recreation] or shower I could be punched or slammed at any moment. I’m very careful. My dreams are often violent. I can’t sleep unless I cover my chest with a magazine or book. SMU II does some weird shit to you man. I inspect my food, if it’s weird in any way I won’t eat it....The feeling of being buried alive is real.¹⁰

Suicide in SMU

Suicide is a frequent topic of correspondence between AFSC and prisoners in solitary confinement in Arizona, to the extent that it is referred to almost casually by the prisoners. Kupers pointed out in his declaration before the U.S. District Court that confinement in supermax facilities is “well known to cause severe psychiatric morbidity, disability, suffering and mortality.” Prisoner testimony highlights this:

I’ve thought about suicide more times than I can count, especially at SMU I. This place breeds anger, depression and frustration. If you have a mental illness it magnifies it one hundred times and if you didn’t before you come here, most [people] do when they leave. I never truly wanted to die until I had spent time in an Arizona SMU.¹¹

Suicidal ideation is a warning sign of deteriorating mental health. What begins as mere comments in letters could end in actual suicide attempts. Statistics were not provided by

¹⁰ Prisoner testimony 039, Personal communication to AFSC, 2006

¹¹ Prisoner testimony 019, Personal communication to AFSC, 2006

the ADC regarding suicide attempts and institutional deaths in SMU I and II. However, if we take New York as an example, where Neumann reported that 53 percent of prisoners with mental illness were reported to have attempted suicide while in supermax facilities, then we have a potentially serious situation in Arizona.

Even when correctional officials note a suicide risk, the AFSC has concerns regarding the care provided to prisoners in crisis. ADC Department Order 807 states that prisoners are to be placed on suicide watch when they are “presenting significant suicide risk or actively engaged in self-harm.” Suicide watch consists of housing prisoners in designated “watch cells” which are easily visible to staff and “as suicide-resistant as is reasonably possible, free of all obvious protrusions and tie-off points.” This and other procedures governing treatment of suicidal prisoners is outlined in a new suicide prevention policy that went into effect in July 2006. It is unclear what the policy was prior to this date, but the following excerpt provides some indication. In it a prisoner describes his treatment during and after his time on suicide watch in SMU I:

They stripped me naked (and I remained that way until I left), and placed me into a filthy cell at SMU I that had cold air constantly blowing through it. I had an open wound on my foot that received no medical care. I was teased and taunted, and my meals were being withheld from me to the point to where upon returning to my unit I was placed on a special diet. I also was not given a shower during my seven-day stay.¹²

It appears that ADC’s new suicide prevention policy brings the department more in line with the community standard of care. While encouraging, AFSC is very aware of the vast gulf that can exist within correctional facilities between the policies on the books and the actual conduct of correctional staff.

ADC’s New Classification System: Longer Stays in Solitary Confinement?

In the ADC, decisions regarding prisoner housing are based on his or her security score, which is calculated using an elaborate classification system. The system is supposed to evaluate the prisoner’s risk to the institution and risk to the community at large, which then determines whether the prisoner is to be housed in a low, medium, or high security unit. While this may appear at first glance to be a very cut-and-dried determination, the impact of security classification is not to be underestimated. It certainly means the world to the individual prisoner, since the lower security units allow prisoners more access to jobs,

¹² Prisoner testimony 056, Personal communication to AFSC, 2006

education, rehabilitation, and other programming. It also is important to the overall security of the facility. Because an individual's level of risk can change over the course of their incarceration—based on both good and bad behavior—the classification needs to be reviewed regularly to reflect these changes.

The ADC announced on its website that it would begin to phase out its current system on October 25, 2006, for what was billed as a “new and automated inmate custody classification system.” The ADC asserts that this new system is based on completely objective criteria, which will ensure that prisoners are housed in units that are appropriate for their level of risk, thereby preventing low-level prisoners from being placed with more serious offenders and vice versa. Yet at the same time, the new policy removes the checks and balances of due process and the review procedures that would help verify that the system is indeed working as intended.

An e-mail sent by ADC Director Dora Schriro to ADC staff and posted on the ADC website announced that all 60-day reviews of classification status will be discontinued. The ADC has also eliminated Due Process hearings regarding classification status, except for maximum custody placements. Most alarmingly, the 180-day review for prisoner classification is being replaced with reviews every 12 months. It is therefore entirely possible for prisoners to remain in solitary confinement twice as long as before.

ADC's new classification system appears to have made it much more difficult for large numbers of prisoners to transition out of solitary confinement to lower security units. “Absolutely,” confirmed one prisoner when asked if the new classification system makes it harder to move down to a less restrictive unit.

The new system considers all infractions committed during one's incarceration, even if they occurred years before. Also calculated in the classification score, ostensibly to the prisoners' benefit, is participation in programming, such as employment, education, and rehabilitation. Unfortunately, for prisoners in SMU I or II, programming is extremely limited due to the high level of security. Prisoners in SMU I and II are forbidden from holding jobs. Most of what is available in terms of education or rehabilitative programming can only be taken via a closed-circuit television program. Televisions can only be purchased with money from the prisoner's personal account—family members cannot send televisions. As there are no jobs available for prisoners of SMU I or II, most prisoners in SMU are indigent, rendering such programming—and the chance to earn their way out of supermax—out of reach.

The AFSC is concerned that the new classification policy will lead to an increase in the number of prisoners held in solitary confinement and lengthen the time they spend there. This combination of factors raises the related concern that many prisoners held in SMU I or II will serve out the remaining years of their sentences and be released directly from solitary confinement without the opportunity to re-adjust to social settings and interactions. The implications for public safety and recidivism are considerable. One prisoner told AFSC that he spent two years and two months in SMU I. Four of those months were in the Violence Control Unit (see inset). At the end of his sentence, he was released directly from SMU I to the community with no transition time.¹³

It is the opinion of AFSC that any ADC policy should have in mind the eventual release of its prisoners (as 96 percent will return to Arizona communities), and therefore must focus upon the rehabilitation and support of each individual prisoner. We question how a policy that causes people to remain longer in isolation is in keeping with the “parallel universe” model that ADC Director Schriro has set forth as the basis for all management decisions. This model suggests that the prison environment must be as much like the outside world as possible, in order to prepare prisoners to meet the expectations and responsibilities of life after release. Isolating people from all human contact stands in direct opposition to this goal.

SMU Does Not Decrease Violence or Maintain Safety

The justification for isolation units is that such conditions increase safety for everyone involved: guards, prisoners, and ultimately the broader community. The assumption is that limiting physical contact with others will eliminate opportunities for altercations, thereby reducing the overall number of assaults. However, Briggs’ study of the impact of supermax units on aggregate levels of violence within prisons concluded that “[n]o support was found for the hypothesis that supermaxes reduce levels of inmate-on-inmate violence” and that “[m]ixed support was found for the hypothesis that supermax increases staff safety.”

Arizona was one of three states examined in Chad Briggs’ study, which found that the opening of SMU I had no measurable impact on the number of staff assaults. More surprising was the finding that assaults on prison guards actually *increased* temporarily after the opening of SMU II, from five to seven per month.

¹³ Prisoner testimony 047, Personal communication to AFSC, 2006

It would be simple to argue that the high level of assaults is due to the violent proclivities of SMU I and II prisoners, the “worst of the worst.” Not only does such circular logic contradict the stated purpose of such units, to more effectively manage violence, it also fails to address the wealth of evidence which finds that isolation can *produce* violent and psychotic symptoms, as discussed elsewhere in this report.

Grassian notes that “the courts have recognized that solitary confinement itself can cause a very specific kind of psychiatric syndrome, which in its worst stages can lead to an agitated, hallucinatory, confusional psychotic state often involving random violence and self-mutilation, suicidal behavior, [and other] agitated, fearful and confusional kind of symptoms” (qtd in Kamel and Kerness, 2003).

While serving as warden of Parchman Prison in Mississippi, Don Cabana presided over the construction of a new supermax unit. He has thirty years of experience working in prisons and has formed a clear-cut opinion about supermax’s capacity for providing greater safety: “I think what we’re doing in supermax is, we’re taking some bad folks, and we’re making them even worse. We’re making them even meaner.” Cabana has said that his biggest regret was building the Supermax unit at Parchman” (qtd in Sullivan, “As Population Swells...”).

Toxicity of Isolation

There have been a couple of times that I’ve tried to end my life in here, but they keep reviving me and bringing me back. When I asked why, I was told, “You’re not going to die on us; we’re not through punishing you.

— Arizona SMU I prisoner¹⁴

As a prisoner advocacy organization, the AFSC Arizona office receives nearly one thousand letters each year from prisoners. These letters speak volumes about the real life conditions behind the walls of ADC.

The prisoner testimony covers a variety of topics, yet there are sufficient similarities and themes to indicate that these are not isolated incidents. Many of the conditions in SMU I and II described in the previous section of this report are clear-cut examples of abuse and neglect that may be in violation of international human rights standards. No legitimate correctional purpose is met by subjecting prisoners to roach infestations, rotten food or milk, or gross medical neglect.

¹⁴ Prisoner testimony 056, Personal communication to AFSC, 2006

It is becoming increasingly clear that solitary confinement facilities negatively affect all people who come into contact with them, including prisoners' families and the staff who work in them. A letter from a mother of an SMU prisoner (see box next page) speaks to the far-reaching impacts solitary confinement has on families and loved ones of prisoners. Conditions detailed by Magnani and Wray cite fewer visits, non-contact visits, limits on outgoing mail, and severe restrictions on phone use or no phone calls at all as adding to the physical gulf between prisoners and their families and the difficulty of maintaining family relationships. Imagine being a four year-old child who only sees her father once every three to six months through a plexiglass window. This reality is contrary to the stated aim of helping prisoners to become contributing members of society.

Another affected population, often overlooked in discussions about the impacts of supermax conditions, is the prison staff. There is an obvious imbalance of power between prison staff and prisoners, given that the former has control of every single aspect of the life of the latter. Many facilities develop a deeply adversarial culture, in which any level of relationship between guards and prisoners is frowned upon by both sides.

This tension takes its toll in a variety of ways, with serious ramifications. One correctional officer in Oregon, Gary Harkins, described reliving incidents from his work day on the isolation ward, after he arrived home. Sometimes he would go to work in the morning when it was still dark and leave after the sun had set, effectively seeing no more sunlight than the prisoners. Harkins said that some officers do a poor job at managing the difficulties of working in such a tense environment; "Those people are going to be your neighbors some day...and if our system is maintaining people in a negative, antisocial way, we're not doing ourselves any good. We're not doing society any good." (qtd in Sullivan. "Working the Isolation Unit")

Grassian testified before the Commission on Safety and Abuse in United States Prisons that "nothing good ever happens in a sterile high security prison. The only things that ever happen are bad – sudden and violent." He cited two social and interpersonal problems that are experienced by correctional officers working in such facilities: alcohol abuse and domestic violence. Grassian's analysis is clear. "It is not just prisoners who need meaningful programming and rehabilitation. The COs need it. And perhaps most important, the community to which the prisoner will return needs it."

Having a Son in SMU I

November 1, 2006

Honorable Mark Anderson
House of Representatives
18th District
1700 West Washington
Phoenix, AZ 85007

Dear Representative Anderson:

My much-loved son is being tormented to death in the Arizona prison system and I hope that matters to you.

Do most of us know that they are often treated inhumanely while surviving in a seven-by-ten-foot windowless, roach-infested cement box? Currently my son is having nightmares and occasional hallucinations. This may be the result of the daily torments plus sensory deprivation on many levels.

My son developed painful pus-filled bleeding sores after being made to sleep on a torn-up, roach-infested foam pad. After many requests, he was finally given antibiotics. After eight months, the extremely painful sores are finally better.

Believing that death is the only exit he will receive from this torment-filled life, my son stopped eating during the summer. After a day or so, he was informed that if he did not begin eating again someone would stop by every fifteen minutes to inquire about his health.

Knowing that sleep deprivation, along with all the other torments, would deprive him of the shreds of sanity he has been able to maintain, he again started eating the horrific food, even though he often gets terrible stomach pains from doing so.

This is one of the worst nightmares any parent could imagine for their loved and treasured child. And none of us knows when a mental crisis might occur for our own loved ones. Be certain that you will be appalled by the medical, optometric, psychological, dental, hearing and physical care your child or other loved one would receive if they become a resident of the Arizona prison system. Please do what you can to see that the human beings we incarcerate (for oh so many reasons) receive humane care.

Sincerely,

Parent of a much-loved son housed in a Special Management Unit in Florence, Arizona.

Other Forms of Solitary Confinement and Affected Populations

While this section focuses on the supermax facilities of SMU I and II, the AFSC is acutely aware that other units exist within ADC that employ isolation conditions for shorter periods of time or in slightly different formulations. These include, but are not limited to Complex Detention Units (CDUs), also called, "the hole"; close-custody units in which prisoners are kept confined 23-24 hours per day but have cellmates; and temporary all-unit lockdowns in which all prisoners are kept in their cells for undetermined amounts of time, generally in response to a disturbance in the yard.

The AFSC was unable to accurately determine whether women within ADC are held in solitary confinement. AFSC is aware of a maximum security yard in Arizona's only women's prison, The Arizona State Prison Complex (ASPC) in Perryville. This unit, called the Secure Management Area (SMA), is reported to be regularly holding women in long-term solitary confinement. Requests for policy information about the unit from ADC were unsuccessful.

Another hidden population within the Arizona Department of Corrections that may be experiencing isolation is minors adjudicated as adults. The Rincon yard in Tucson's state prison complex has a Minors Unit that houses 112 youth convicted and sentenced as adults. The youth will remain there, removed from sight and sound of the adult prisoners, until midnight on their 18th birthday, at which time they are transferred into regular units. Rincon Minors unit has a level 5 section used for maximum security. AFSC was unable to determine the conditions of confinement within this unit, but its existence raises similar questions to those posed in the section on the Arizona Department of Juvenile Corrections within this report.

Though perhaps lesser in severity and length of isolation, these additional solitary confinement units are beyond the scope of this report but deserve concerted attention and review. The problems associated with isolation that are described throughout this report have the capacity to manifest themselves in these quasi-supermax situations. A more comprehensive review of the scope of imprisonment in Arizona is called for in order to ensure that all prisoners are treated humanely.

Conclusions

Official sanction of cruelty is not justice. Rather, it leads to abuse and deeper violence.

— Magnani and Wray, 2006

Housing people in isolation can cost \$50,000 a year more (Sullivan, “At Pelican Bay”) than the approximately \$20,000 the ADC cites in its 2003 Annual Report as the cost per prisoner per year in Arizona. Additional security measures, staffing, and specialized equipment put a hefty price tag on solitary confinement. Arizona already spends more of its general fund dollars on the Department of Corrections than it does on the entire Department of Economic Security, which oversees the Food Stamp Program, Child Protective Services, and Unemployment Assistance. Whether financially, socially, or individually, the costs of these units do not result in the benefits society expects from the Department of Corrections.

Corrections in Arizona, and many other states, is a system based more on punishing behavior than correcting it. Aside from the death penalty, solitary confinement represents the most extreme punishment society has sanctioned the government to employ. We have done so out of a belief that such radical measures are necessary to maintain safety and order within our prisons. Yet this belief was never based on demonstrable fact, and initial evaluations of the effectiveness of this social experiment are sobering.

The long-term impacts of these policies reach far beyond the prison walls. As is demonstrated throughout this report, the neglect and abuse festering within these units will ultimately find its way back to all of us in the form of broken families, higher incidences of mental illness, greater state spending on corrections at the expense of other needed programs, more assaults and disturbances, and, finally, more crime.

AFSC views long-term solitary confinement as inappropriate, ineffective, and damaging to individuals and communities. The following are the recommendations of the organization.

Recommendations

1. **Collect and release statistical and other data to the public** regarding:
 - a. Rates of recidivism for prisoners who have been held in SMU I and/or II as compared to the general prisoner population, including those prisoners released directly from solitary confinement;
 - b. Suicide attempts (successful and unsuccessful), by unit;

- c. Any information relating to the Violence Control Units, their populations, conditions, and policies relating to their use.
2. **Immediately convene an independent investigative body composed of experienced psychologists and psychiatrists, under the auspices of the Arizona Attorney General to assess the mental health impacts of placement in SMU**, taking into account the mental health history of prisoners in these units (before and during incarceration), the classification process, the quality of mental health treatment in SMU, and impacts of conditions of confinement on prisoners' mental health. The results of the investigation should be made available to the public, the Governor, and the Arizona State Legislature.
3. **Create a permanent, independent oversight committee** under the auspices of the Governor's office. This body should include representatives from both parties of the Arizona State Legislature, the Governor's office, the Department of Corrections, mental health and substance abuse treatment agencies, civil rights attorneys, families of current prisoners, and formerly incarcerated people. Grant the committee full access to all policies, records, and other documents (including video), as well as the ability to enter any facility at any time without prior notice. The committee should also have the ability to interview any prisoner at any time. The Committee should have the authority to set department policies and practices and to impose sanctions on the ADC or member of its staff if they are found to be in violation of these policies or state or federal law. The Committee shall monitor compliance within ADC facilities and report findings regularly to the Governor and the public. In particular, the Committee will be empowered to do the following:
 - a. Review current ADC policies regarding placement in and removal from the SMU's, including the classification system, and make recommendations as to the appropriateness and effectiveness of these policies;
 - b. Monitor conditions in those units;
 - c. Monitor rates of mental illness, suicide attempts, and the delivery of mental health treatment.
4. **Increase the number of professionally trained mental health staff** in all ADC facilities.

5. **Amend ADC policy to prohibit placing any prisoner with a mental illness or mental health score of three or higher in SMU** or other solitary confinement conditions.
6. **Remove from solitary confinement all prisoners with a mental health score of three or higher or with a history of mental illness.**
7. **End the requirement that all death row prisoners be housed in SMU.** Allow for review of classification of death row prisoners so that those who have clean disciplinary records are eligible for placement on appropriate lower security yards.
8. **Prisoners with release dates in two years or less should immediately be classed down to lower security yards and given programming in preparation for release.**
9. **Eliminate the use of long-term solitary confinement in the Arizona Department of Corrections.**

V. ARIZONA DEPARTMENT OF JUVENILE CORRECTIONS (ADJC)

Background: Children Are Different

Our society recognizes that juveniles differ from adults in their decision-making capacities as reflected in laws regarding voting, driving, access to alcoholic beverages, consent to treatment, and contracting. . . Adolescents are cognitively and emotionally less mature than adults. They are less able than adults to consider the consequences of their behavior, they are easily swayed by peers, and they may show poor judgment. We also know that teens who have been victims of abuse or have witnessed violence may show increased levels of emotional arousal and a tendency to overreact to perceived threats. Victims of child abuse and neglect are overrepresented among incarcerated juveniles. . . Studies of this population consistently demonstrate a high incidence of mental disorders, serious brain injuries, substance abuse, and learning disabilities, which may predispose to aggressive or violent behaviors. In many instances, these juveniles have not received adequate diagnostic assessments or interventions.

— American Academy of Child and Adolescent Psychiatry, 2000.

Many people are surprised to learn that juveniles are placed in solitary confinement. While the practice differs in some ways from its use in adult prisons and jails, an alarming number of youth in the Arizona Department of Juvenile Corrections (ADJC) are confined in conditions that qualify as isolation.

The State of Arizona has singled out the juvenile population for a particular application of its retributive sentencing policies. Since the early 1990s, sensationalized media predictions of a coming wave of juvenile “super-predators” spurred most states and the federal government to enact a host of get-tough policing and sentencing policies, including zero-tolerance school policies, stepped-up gang enforcement, trying children in adult courts, and even applying the death penalty to child offenders. As Barry Glasser demonstrated in *The Culture of Fear*, repetitive media accounts of incidents of youth violence do not reflect criminological realities in the US; yet the incessant circulation of such stories has garnered mass support for the meting out of extraordinarily harsh punishment to children convicted of crimes. Ironically, these recent reforms are in direct opposition to the concepts that created a separate justice system for juveniles in the early nineteenth century. Prior to that, youth were held in the same jails as adults, exposing them to horrendous abuse and exploitation, as accounted by Magnani and Wray:

The early champions of creating a separate legal system for youth offenders were responding to the atrocious conditions in adult jails and the long-term harm this

could cause children who served time in them. The idea behind the new juvenile court was that children are not adults; they understand their actions and the world differently, and this requires different responses from the adult community. . . . Juvenile detention facilities and state juvenile corrections institutions were created to take the place of adult jails and prisons precisely because young offenders were recognized to show great potential. Reformers realized that nobody's interests were served by traumatizing children, sometimes irreparably, in adult courts and prisons.

Recent scientific research reveals that children's brains develop more slowly than previously believed. Using the relatively new technology of magnetic resonance imaging (MRI), scientists have discovered that the frontal lobe of the brain—the area that governs emotions—undergoes far more change during adolescence than in any other stage of life and is the last part of the brain to develop. According to the Juvenile Justice Committee of the American Bar Association, "The evidence is now strong that the brain does not cease to mature until the early 20s in those relevant parts that govern impulsivity, judgment, planning for the future, foresight of consequences, and other characteristics that make people morally culpable. . . ." These findings make a strong case not only for re-examination of law enforcement and sentencing policies affecting juveniles, but also for scrutiny of juvenile conditions of confinement, particularly the use of isolation.

The Justice Policy Institute's 2006 review, *Dangers of Detention*, found a host of negative correlations with the experience of detention, including indications that it can exacerbate mental illness. The report cites one study that showed that for one-third of incarcerated youth diagnosed with depression, the onset of depression occurred after they began their incarceration. Even more troubling was the finding that poor mental health and conditions of confinement work together to make it more likely that incarcerated teens will engage in suicide and self-harm. The Justice Policy Institute found that "incarcerated youth experience from *double to four times* the suicide rate of youth in the community."

There is an overwhelming consensus in national correctional standards and among juvenile justice experts and social scientists that isolation is an ineffective therapeutic tool that is harmful to youth and normally unnecessary for the effective management of juvenile facilities (Zimmerman, 2005). Linda Finke's 2001 research on use of seclusion for youth in mental institutions concluded that ". . . the experience actually may cause additional trauma and harm. There is no research to support a theoretical foundation for the use of seclusion with children."

United Nations Guidelines for the Prevention of Juvenile Delinquency prohibit holding children in “closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned.”

The most damning indictment of the practice of isolating juveniles is found in the National Center on Institutions and Alternatives 2004 report on the correlation between isolation and youth suicide in detention facilities. The research was conducted by the U.S. Justice Department’s Office of Juvenile Justice and Delinquency Prevention (OJJDP), and represents the first national survey of juvenile suicide while in confinement. The findings are alarming. Out of 110 juvenile suicides occurring in juvenile correctional and detention facilities between 1995 and 1999, 50 percent of victims were on room confinement status at the time of death, and 62 percent had a history of room confinement (National Center, 2003).

The OJJDP points out that employing isolation as a response to suicidal threats and behavior contributes to suicidal behavior rather than quelling it. While many juvenile systems justify its use as a preventative measure, there is strong evidence that some correctional employees seek to punish the youth for their mental illness, viewing suicide threats as behavioral problems rather than as mental health crises requiring therapeutic intervention.

The OJJDP statistics are unfortunately reflected in our own experience in Arizona. According to Amy Silverman’s article “Teenage Wasteland” in the *Phoenix New Times*, two out of the three juveniles who committed suicide in the Department of Juvenile Corrections in 2002 had been locked in their cells, one for over a week.

Use of Isolation in the Arizona Department of Juvenile Corrections

The State of Arizona currently operates four prisons for children, which it euphemistically calls “safe schools.” Two of the facilities--Adobe Mountain School (males), and Black Canyon School (females)—are located in the Phoenix area. The Southwest Regional Juvenile Corrections Complex (SWRJCC) is composed of two facilities, Eagle Point School (males) and Sunrise Parole Violator Center, and is located in Buckeye, which is approximately thirty-five miles east of Phoenix. Catalina Mountain School (males) is located in Tucson. ADJC practices three distinct forms of isolation in these facilities:

- **Exclusion:** The removal of one or more juveniles from regular programming and contact from other juveniles between waking and regularly scheduled bed-time hours by requiring the juvenile(s) to remain in a specified location such as hallways and locked or unlocked juvenile rooms (ADJC Policy 4064).

- **Separation:** Removal of a juvenile from the general population and reassignment to an area designated for a behavior-management program for a specific period of time (ADJC Glossary of Terms).
- **Large Group or Lockdown:** The placement of juveniles from a facility or unit in a locked room, preferably their own, for the purposes of physical count, exclusion (not to exceed two hours), or contraband search (ADJC Glossary of Terms). Evidently, this is generally applied to entire units at the same time.

The State of Arizona has a troubled history in its incarceration of juveniles, particularly its use of isolation. In 1987 a case involving a boy who was held in solitary confinement for several weeks led to a class-action lawsuit against the Arizona Department of Juvenile Corrections (ADJC), *Johnson v. Upchurch*. The suit resulted in a court order requiring substantial changes within the department and federal monitoring to ensure its compliance. Among the agreements that resulted from the settlement was a requirement to limit isolation of youth to twenty-four hours or less. The court order and accompanying oversight expired in 1998. Unfortunately, ADJC did not learn its lesson.

In 2002, spurred by three juvenile suicides in less than one year and a scathing investigative report from a weekly newspaper in Phoenix, the US Department of Justice initiated an investigation into conditions within ADJC. The investigation was conducted by the DOJ's special litigation unit, which enforces the Civil Rights of Institutionalized Persons Act (CRIPA). The findings of the investigation were delivered by Alexander Acosta, the Assistant Attorney General, in a blistering 38-page memo to Governor Napolitano, which concluded that "the children confined [in ADJC facilities] suffer harm or risk of harm from constitutional deficiencies in the facilities' suicide prevention measures, correctional practices, and medical and mental health care services."

One specific category of findings was the "Inappropriate Use of Disciplinary Confinement." Acosta's report found that "youth are kept in isolation for extended and inappropriate periods of time that fly in the face of generally accepted professional standards." The report notes that one youth was confined in the Separation Unit (a special unit employing solitary confinement conditions) for thirty-three days and four others were kept there for more than eighteen days, over the objections of mental health staff.

Other evidence of abusive practices cited in Acosta's report includes a staff log entry describing the confinement of a youth for several days on "security status," during which

time he “was permitted to talk only with certain designated staff, and, even then, only for five minutes in the morning and five minutes in the evening, at which points he could “request toilet paper.” The log also denotes that the youth’s day was to be spent in silence, yet offers no explanation or justification for such treatment.” The report concludes that “[t]his condition of confinement raises serious constitutional questions in that it potentially precluded this youth from alerting staff about, and securing necessary treatment for, serious medical issues.”

In addition to placing children in the special Separation Unit, staff at ADJC frequently confined all the youth in a particular cottage to their rooms for extended periods of time, a practice referred to as “large group” or “lockdown.” The Acosta report notes that in one unit, the youth were locked down for more than fourteen consecutive days. As noted earlier, one of the suicides that occurred previously in ADJC involved a youth whose unit had been locked down for over thirty days.

In response to these practices, the report declares that, “the State’s institutions appear to ignore completely the adverse psychological side effects of prolonged isolation and, more importantly, seem to have adopted no standards governing when such lock downs may be validly employed.”

The Writing on the Wall: An Account of Mental Illness in ADJC Lockdown

The boys in Nova Cottage at Adobe Mountain School had been locked in their cells for six days. They had not been allowed to go to school or to the cafeteria or to chapel. No weekly phone calls. They had not showered, or washed their clothes. Some had been without a mattress on their metal bed frames for weeks. Leftover food and garbage sat on the floors of their cells; some boys banged on the doors, demanding to use the bathroom. A streak of dried urine ran under the door of one cell. Inside there was more urine and feces on the floor.

Terri Capozzi followed a trail of blood, seeping into the hallway, to the door of the cell belonging to a boy named Roberto. She looked through the window. “The room was in complete disarray,” Capozzi, the youth rights ombudsman for the Arizona Department of Juvenile Corrections, would later write in a memo obtained by *New Times*. “Looking down on the floor, I saw the bottom half of a pint milk container set carefully in the middle of the blood-spattered floor. It appeared that the container was filled to the brim with blood...As I stepped into the empty room, I noticed on the floor not far from the milk carton a wad of white gauze bound together. It was blood-soaked on one end. When I looked up at the walls, I realized the container was a bucket, the gauze a rudimentary paintbrush and that [Roberto’s] blood was the paint. The walls were filled with carefully drawn ornate designs, carefully rendered. I was awestruck by what occurred in that room” (Silverman, “The Kids Are Not Alright”).

Current conditions and practices

As a result of the investigation, the ADJC entered into a memorandum of agreement with the DOJ to address the multitude of problems in its facilities. Unfortunately, the MOA falls short of ordering ADJC to cease the practice of solitary confinement for juveniles. Instead, it simply acknowledges that the State has enacted new policies and procedures regarding its use of isolation and urges it to continue to implement and monitor those policies. Instead of enforcing a strict limit of twenty-four hours in isolation, the USDOJ memorandum requires only that due process be followed whenever a decision is made to isolate juveniles for more than twenty-four hours.

The Memorandum of Agreement¹⁵ provides for a Consultants Committee to monitor the compliance of ADJC within the provisions of the Agreement. This committee produces reports every six months to outline the ADJC's progress in achieving the goals set out for it by the DOJ. In the September 2006 report, the committee cited "partial compliance" in the area of implementation and monitoring of policies regarding the use of exclusion. Statistics provided in the Consultants Committee report showed that the length of time in exclusion had actually *increased* in two of the three facilities between January and June 2006, and the total rate of exclusions for ADJC as a whole had increased from 1.90 to 2.85. One of the reasons for the increase cited in the report was that staff had instituted a policy of "Zero Tolerance for youth disrespecting staff." The policy was later discontinued.

The Consultants Committee report¹⁶ also points to continued problems with the use of separation, particularly a new practice that was instituted at one of the facilities. While the report is somewhat unclear on the details of this practice, it involved developing "individual behavior plans" for "youth identified by the treatment teams as those needing identified consequences for their behavior within the facility. . . These youth are called. . . "frequent fliers". The report offers no specifics as to what would place a youth in such a category. These youth could then be placed in separation for up to five days, with their release from separation contingent upon their adherence to the requirements in their "individual behavior plan." It appears from the report that the youth remain in separation for an unspecified length of time, if they do not complete the requirements of the plan to the satisfaction of staff.

¹⁵ U.S. Department of Justice. *Memorandum of Agreement Between the United States Department of Justice and the State of Arizona Concerning Adobe Mountain School, Black Canyon School, and Catalina Mountain School.*

¹⁶ Hayes, Lindsay, Louis Kraus, Peter Leone, and Russell K. Van Vleet. Consultants Committee (pursuant to Section III F (5) of the Memorandum of Agreement Between the United States Department of Justice and the State of Arizona Concerning Adobe Mountain, Black Canyon, and Catalina Mountain Schools", Fourth Semi-Annual Report, September 15, 2006.

The Consultants Committee report denounces this practice on several grounds, notably stating “the length of time is excessive.” It also criticizes the practice of placing youth in separation based on past behavior rather than clinical assessment, and it decries the lack of due process. One of the most disturbing concerns raised in the report is that “[t]here is an assumption that increased use of separation will modify behavior. There is nothing in juvenile correctional literature that supports that notion.” Fortunately, after several site visits by the monitoring team and a “thorough examination of the issues raised,” the practice of basing length of time in separation on behavior plans was discontinued.

The report also points to a problem with a lack of clarity or agreement on the policy governing which staff members are qualified to make the determination to place a youth in separation and under what circumstances. At one of the facilities, “youth are being taken to separation due to 10/24s (disruption of the facility). In many cases, it was the opinion of senior staff interviewed that youth did not need to be taken to separation nor admitted.”

Our attempt to gather information directly from ADJC was met with an unenthusiastic response. We received curt answers to four of the six questions we submitted in writing to Director Michael Branham.

Though the statistics provided to AFSC Arizona show an average single stay in separation as lasting seventeen hours and thirty minutes, when we questioned ADJC research staff as to whether it is common for youths to be removed from separation for short periods of time and quickly returned for another stay, the response was an emphatic “Oh, yes. That happens all the time.”

Past ADJC employees have reported that, at its best, isolation is used as a sort of “time out,” and several noted that many youth request to be placed in exclusion. The staff encourages this, because it is seen as a positive indication of self-monitoring when a child recognizes that they are becoming angry and voluntarily acts to de-escalate. This is reflected in the Consultant’s Committee report, which notes that “there was concern that exclusion rates at CMS were considerably high and that ‘most of the use is self-referred.’” In response, ADJC updated its procedure to allow for juveniles to request “self-exclusion” in the form of quiet time. There remains a significant concern, voiced by the monitors, past employees, and other observers, that there remains a tendency for this time out to become abused as a disciplinary measure.

Conclusions and Recommendations

It is clear that there are significant and persistent problems within ADJC that can only be resolved through major structural changes to the department. A coalition of community leaders, aided by the hard-hitting investigative journalism of the *Phoenix New Times*, has been calling for such changes for over five years to no avail.

Many of the same issues that spurred a class-action suit in 1987 appear to continue to this day, despite an intervening court order, a Department of Justice investigation, and intensive monitoring. These persistent problems include the inappropriate and excessive use of separation and lockdown.

There is little reason to believe that the modest progress ADJC is making under DOJ supervision will continue once that oversight is removed, given the fact that Arizona had previously been subjected to a federal consent decree that mandated substantial reforms. Just four years after that consent decree was dissolved, ADJC had regressed to the point of requiring federal intervention yet again.

It is our belief that the **root of the problems within ADJC is its adherence to an adult corrections model**, which many experts acknowledge is not only inappropriate but counter-productive for juvenile offenders. It is based on retributive punishment rather than rehabilitation and socialization. It assumes that juveniles are in control of, and therefore responsible for, their actions in the same way as adults, an assumption disproved by current brain development research cited earlier in this document.

As an alternative, the Missouri model of juvenile corrections has been widely acclaimed as a common sense, research based approach to dealing with youthful offenders:

The decentralized youth corrections system strongly emphasizes rehabilitating young offenders in a homey, small-group setting that incorporates constant therapy and positive peer pressure under the direct guidance of well-trained counselors. . . The Division of Youth Service's "culture of caring". . . is more than just an airy mission statement. Indeed, it is an elaborate, results-driven enterprise carefully designed around the dual goals of promoting public safety and delivering high quality, appropriate treatment services to kids in a dignified environment. And by nearly every measure, it is a singular success. With its exceptionally low recidivism rates, moderate price tag, and widespread public support, the Missouri model flies in the face of the prevailing "tough on crime" approach for juveniles (McGarvey, 2005).

One of the Treatment Philosophies that undergirds this model is that of providing the least restrictive environment. The Missouri Department of Youth Services describes its approach this way: "The least restrictive environment should be provided to all youth. The movement

of a child from his/her home to a more restrictive setting is considered serious and such movement is evaluated through administrative checks and balances." As a result, the use of isolation is viewed as an absolute last resort. Reportedly, the Missouri system has only seven individual isolation rooms (the system has a total of seven hundred beds), one in each housing unit. Former Director of the Missouri Division of Youth Services Mark Steward reported that over the past ten years, none of the state's five regions have used their isolation rooms more than five times, and some have not used theirs at all (Zimmerman, 2005). Current Assistant Deputy Director Dennis Gragg confirmed this, saying "they are seldom used; often they are found being used as a storage closet and must be cleaned out before a youth can be put in the room."

Gragg emphasizes that the infrequent use of separation is due to a variety of factors related to the department's treatment-oriented philosophy and alternative interventions, not just to having a policy that limits its use. He explains that the ability to maintain a safe environment is related to:

- a) Small facilities—the largest houses fifty youth;
- b) Division of population into treatment groups of ten to twelve youth and small housing units;
- c) Group treatment strategies and interventions;
- d) A therapeutic homelike climate to minimize, to the extent possible, institutional practices and physical appearance to eliminate the mindset of "if it feels like a prison, act like a prisoner;"
- e) 100 percent eyes-on staff supervision of all youth at all times;
- f) Staffing patterns: during waking hours two staff are assigned to each group of ten to twelve children;
- g) Staff training.

There likewise appears to be no exclusion practiced in the Missouri system, primarily because there are no individual rooms in the entire system. All residential facilities have open dorm sleeping areas.

It is imperative that we acknowledge that the Department of Juvenile Corrections is an agency with literal life-and-death power over hundreds of Arizona's children. The youth in its care depend on ADJC for all their daily needs: food, shelter, clothing, medical assistance, recreation, education, mental health treatment, and socialization. These are children with

traumatic histories, critical physical and mental health needs, and deep-seated emotional and behavioral problems.

At the very least, **it is clear that the Arizona Department of Juvenile Corrections requires permanent oversight** of an objective body with unfettered access to the facilities, all records, staff, and the juveniles held there, and the legal power to require policy changes as needed. The oversight group should be comprised of a diverse and balanced group of stakeholders, including former residents of ADJC facilities, parents of current residents, ADJC staff or administrators, and representatives of the youth services, mental health, and drug treatment fields. The body should report directly to the Governor. It should have full subpoena power and be empowered to impose other sanctions if the Department is found to be in violation of its agreements.

In summary, the American Friends Service Committee, Arizona recommends the following:

1. Implement and fund a **permanent citizen oversight committee** comprised of a diverse and balanced group of stakeholders, including former residents of ADJC facilities, parents of current residents, ADJC staff or administrators, and representatives of the youth services, mental health, and drug treatment fields. The committee shall report to the Governor. It shall be empowered to investigate complaints with full access to all residents, staff, and documents at any time, and be authorized to make substantial changes to policy and procedures.
2. Overhaul the Arizona Department of Juvenile Corrections to adhere as completely as possible to the Missouri model in the areas of:
 - a. Emphasis on therapeutic interventions over punitive or retributive measures;
 - b. Smaller, decentralized facilities with homelike environments;
 - c. Full staffing and adequate staff training.
3. End the use of isolation, exclusion, and lockdown in ADJC.

VI. MARICOPA COUNTY SHERIFF'S OFFICE & THE FOURTH AVENUE JAIL SMU

I could tell you about the *worst* horror stories at the Maricopa County Jail system. They're chaining inmates to bare cement slabs, strapping them into chairs, withholding food and water and the use of the bathroom so they are forced to go in their pants, throwing inmates' unwrapped, uncovered food down on to the concrete floor and leaving inmates in cells with no toilets so they must defecate on the floor with no toilet paper and then leaving the inmates in the cell without removing the human waste. The abuse at the Fourth Avenue Jail is so incredible you would not even believe you were in an American jail.

— Fourth Avenue Jail SMU prisoner¹⁷

Critical Differences Between Prisons and Jails

Jails and prisons are vastly different correctional systems. They are administered by different branches of government and hold different types of prisoners. Prisons are operated by either a state or the federal government, and hold people convicted of felonies who are sentenced to more than one year. Jails, on the other hand, are run by individual counties. They primarily hold people who are awaiting trial and have only been accused, *not convicted*, of a crime. They also hold people who were sentenced to less than one year of incarceration, or, in some cases, state prisoners who are undergoing legal proceedings. The majority of jail inmates are non-violent offenders who are accused of misdemeanors rather than felonies. Most are there for only a day or two.

One of the fundamental tenets of the U.S. criminal justice system is the presumption that every person, regardless of economical, racial, or social standing and circumstances, is “innocent until proven guilty in a court of law.” For this reason, the fact that the majority of jail inmates are pretrial detainees—meaning they are still presumed innocent—is of great significance when examining jail conditions and policies. According to Silverman’s article “Fed Up”, in Maricopa County, 70 percent of jail inmates are awaiting trial and have not been convicted of a crime. While even convicted felons have more rights than many people realize, pretrial detainees must consistently be guaranteed the same constitutional rights and protections afforded to non-incarcerated persons.

¹⁷ Prisoner testimony 069, Personal communication to AFSC, 2006

The Maricopa County Sheriff's Office

The jails in Maricopa County are under the auspices of the County Sheriff's Office, headed by the self-proclaimed "world's toughest sheriff," Joe Arpaio. Maricopa County boasts the fourth largest jail population in the United States (behind Los Angeles, New York City, and Cook County, IL), with almost ten thousand people in custody on a given day. The County operates a total of eight jail facilities for the vast range of individuals over which it has jurisdiction, which includes everyone from youth charged as adults and people on work release programs to high security prisoners and those with mental illness so severe they must be housed separately.

In 1998, voters in Maricopa County approved a 0.2 cent sales tax to pay for a massive jail expansion and renovation project. In December of 2004, Phoenix PBS affiliate KAET-TV featured an interview with Don Stapley, the Maricopa County Supervisor, about the prison expansion on its "Horizons" local affairs program. The project cost \$522 million, and increased the jail space in the county by 3.3 million square feet. In 2002 voters extended the tax to provide for the operation of the new jails, which are now almost completely operational. The Maricopa County Jail Office (MCJO) said the expansion added two new facilities, the Fourth Avenue Jail and the Lower Buckeye Jail, and built new support buildings and other facilities, including a food processing plant. In addition, the brand new Fourth Avenue Jail boasts a feature most other county jails would scarcely imagine: A new 144-bed supermax security wing.

MCSO's Troubled History

While there is little doubt that Maricopa County Sheriff Joe Arpaio enjoys publicity, not all the attention his jails have received has been positive. First elected in 1992, Sheriff Arpaio enjoys immense popularity in Arizona resulting from his tough rhetoric and camera-friendly antics. He is known, literally throughout the world, for such innovations in correctional management as feeding prisoners green bologna sandwiches, forcing them to wear pink underwear, and instituting "equal opportunity" chain gangs for both women and juveniles.

Behind the headlines, there is a long and disturbing history of well-documented incidents of prisoner abuse in Maricopa County Jails. These issues first came to light in 1995 with Silverman's report in the *New Phoenix Times* on a United States Department of Justice investigation into reports of abuse in the jails. The allegations included:

- Physical abuse of inmates by staff;

- Staff and administrative failure to address allegations of physical abuse;
- Failure to discipline staff found to have abused detainees and inmates;
- False reporting regarding use of force and allegations of abuse;
- Denial of access to counsel;
- Inadequate medical care (“Feds probe alleged abuse”).

A year later, the Sheriff’s office was rocked by reports of a horrific death in the Madison Street Jail. Scott Norberg died of positional asphyxia after being strapped in a restraint chair by five officers with a towel over his face. Authorities initially denied but later acknowledged that the officers used taser guns, which carry 50,000 volts of electricity, on Norberg repeatedly during the incident (Ortega, “U.S. Lawsuit...”). The *Arizona Daily Star* reported that the medical examiner found twenty-one marks from the taser on Norberg’s body (“Claim Filed...”, 1996). This was followed by several other similarly shocking cases of death or serious injury resulting from the use of the restraint chair. The *Phoenix New Times* even reported on a paraplegic man whose neck was broken as a result of the rough treatment he received (Ortega, “Jailers show”).

In August of 1997, Amnesty International published a report on human rights abuses in the Maricopa County Jails. It specifically cited incidents of excessive force, including assaults by guards on inmates, inappropriate use of restraints, and the abusive use of stun guns.

Also in 1997, the Department of Justice concluded its two-year investigation into the jail system. It concluded that unconstitutional conditions existed in the jails in the areas of excessive force and inadequate medical care. The DOJ’s findings were reported in a strongly worded sixteen-page letter to the Maricopa County Board of Supervisors, which recounted a litany of disturbing findings of abuse and neglect. The letter reported that “jail inmates are subject to use of excessive force and use of excessive and improper mechanical restraints by jail employees, and Defendants fail to protect jail inmates from such actions (Ortega, “U.S. lawsuit”). Examples included “punching and kicking inmates in the head, shoving or throwing prisoners against walls to gain control, rather than using standard restraint techniques.”

The Assistant Attorney General Patrick Deval found that jail staff was applying force without justification, including “use of a stun gun simply to see its effect.” Deval reported in his letter to the Maricopa County Board of Supervisors that it was particularly shocking to find that some staff continued to use force against prisoners who were completely immobilized

in restraints, and that such conduct included “use of a stun gun on a prisoner’s testicles while in a restraint chair.”

Unfortunately, these interventions did not eliminate the incidents of abuse and neglect in the jails. In 2001, another man, Charles Agster, was killed in the Madison Street Jail’s restraint chair. He was mentally retarded and was high on methamphetamine at the time. During the struggle to secure him in the chair, a group of guards put a hood over his head and forced his body forward while his arms were handcuffed behind his back. At this point, he stopped breathing. However, the nurse on duty thought he was faking his cardiac arrest and respiratory failure, and so waited more than four and a half minutes before beginning CPR (*Phoenix New Times*, “Death sentence”). In August of 2006, after the department paid \$17.25 million in response to two lawsuits filed by the families of prisoners who had died in the chair, MCSO announced it would discontinue using the device. It has been replaced with a “safe bed” to which inmates can be restrained while lying flat.

MCSO’s SMU

Throughout my incarcerated experiences this SMU troubles me most. Certainly SMU II in Florence [Eyman] has its long-term negative effects on prisoners, but the men here at this supermax jail SMU are “pre-trial detainees,” not prisoners. They are entitled to more rights and not to be subjected to such madness without due process of law.

— Fourth Avenue Jail SMU prisoner¹⁸

Given the two investigations by the US Department of Justice, a report from Amnesty International, and numerous lawsuits against the MCSO, it is clear that there is a very serious pattern of abuse within the Maricopa County Jails. It is sobering to think that most of these horrific episodes took place *before* the MCSO had a supermax unit. The combination of the MCSO’s history of violence toward prisoners combined with the inherent secrecy and harsh conditions of an isolation unit creates an environment in which an unprecedented level of abuse and neglect against prisoners already discounted as “the worst of the worst” can flourish unchecked.

MCSO proudly boasts of its new, 144-bed Secure Management Unit (SMU) and its accompanying “state of the art” technology. Prisoners have described these solitary confinement cells as far worse punishment than any cells in the Arizona Department of Corrections (ADC). While these types of units are now ubiquitous in state prison systems,

¹⁸ Prisoner testimony 082, Personal communication to AFSC, 2006

MCSO has taken the use of isolation one step further by applying it to people who *have yet to be convicted*. One Lieutenant who oversees the Fourth Avenue Jail SMU pointed out that nearly the entire population of prisoners held in MCSO's SMU cells is "straight from the streets," meaning most have yet to go to trial.

Placement in SMU I and II in the State Department of Corrections is used as a punishment for convicted felons who commit serious violations of prison policy. The Maricopa Jails take a more pre-emptive approach. MCSO insists that placement in SMU or close custody is based purely on an objective point system. The most troubling aspect of this system is that it is based not only on the individual's current behavior, but on his *past* behavior, including incidents that occurred in previous stints in the jail, as well as such factors as gang affiliation. The system also factors in the *pending* charges against the prisoner. Again, these are pre-trial detainees who have not been found guilty of any crime, yet these unsubstantiated charges can be used to place people in the most restrictive environment possible. In sum, MCSO can put people in solitary confinement based only on a perceived threat they *might* pose. Such a policy deviates substantially from accepted correctional practices.

One Fourth Avenue Jail SMU prisoner wrote, "I have receive[d] no disciplinary write ups in my two years and seven months in the "close custody" county jail."¹⁹

Questions regarding due process are always a concern related to use of isolation. The same MCSO prisoner alleges that "there is no review by classification and staff refuses to advise me why I've been kept in the SMU." This concern was repeated in much of the prisoner correspondence we received. There appears to be no way to appeal one's original placement in close custody. MCSO is firm in its belief that the point system used to classify prisoners is objective and untainted by prejudice on the part of staff. They point out that prisoners can request to be transitioned down to less restrictive levels and ultimately to the general population. Placement in close custody is reviewed weekly by the Special Management Review Committee, but it is unclear what criteria they use to determine whether a prisoner is removed from close custody. Despite written requests, the AFSC was unable to obtain copies of the relevant institutional policies governing placement in the SMU.

MCSO assigns one of four security levels to its prisoners: low, medium, high, and close custody. Within the close custody unit there are three levels of restrictiveness. All prisoners

¹⁹ Prisoner testimony 060, Personal communication to AFSC, 2006

are in single cells that contain a bed, toilet, and a small table, but there are varying degrees of contact with guards and other prisoners permitted depending on the level.

- Level one is the absolute highest custody level in which the prisoner essentially never leaves his cell. The shower is inside the cell. There is an extension of the cell euphemistically called the “day room,” which has a phone. The wall between the cell and the dayroom is made of Plexiglas. For one hour a day, the prisoner is released into the dayroom. The cell also opens onto a “rec cell” shared by one other cell on the opposite side. Each prisoner is allowed into the recreation cell for one hour per day, alone.
- Level two is a step down in terms of restrictiveness. Prisoners are escorted out of their cell in order to shower and go to recreation.
- Level three allows the prisoners to leave their cells unescorted and to associate for short periods with other prisoners. They are permitted to go to the shower without an escort and are allowed in a common-area dayroom with four to five other prisoners.

There are 288 close custody cells at the Fourth Avenue Jail. Seventy-two of them are Level One, another seventy-two are Level Two and the rest are Level Three. They are furnished with one sheet and one blanket, but no pillow. Prisoners are permitted some personal items, such as books, photos, and legal materials, but no television, radios or access to education or programs. The recreation cell has concrete walls and corrugated plastic sheeting as a roof that allows in some fresh air, but no direct sunlight. There is no recreational equipment such as weights or balls. Prisoners often will ball up their socks or other clothing in order to have something to toss into the air. Visitors to the unit describe the paint on the floor of the recreation cell as worn around the outside edge from prisoners walking in circles.

The volume of reports of abuse AFSC has received in a year and a half coming from MCSO’s SMU close custody cells is overwhelming. What is most disturbing is that the majority of the testimony came unsolicited from prisoners, many of whom had been held in supermax units in the state prison and reported being much more disturbed by conditions within Maricopa County Jails.

I was strapped into a restraint chair for a few hours or so just to harass me. I have seen people forced to relieve themselves in their clothes because staff refused to let them go to the bathroom while strapped in the chair and also chained to various tables in waiting/holding areas. They would be screaming and begging to be allowed to go to the bathroom and staff would not let them. That is why I attempted suicide. I was done with watching the beatings, torture, and horror and done with the

harassment 24-7 and the continuous torment and torture – fingers wrenched out of joint while applying handcuffs, handcuffs clamped in the skin against the bone, the leg chains clamped on so tight that my feet turned purple, constant various threats by staff, being woke up all during the night for various reasons – to deliver mail at two am, deliver the paper at three am, wake me up to ask me if I am asleep at four am. I was done.

— Fourth Avenue Jail SMU prisoner²⁰

Medical and Mental Health Treatment

As expressed elsewhere in this report, lawsuits and investigations into the general state of medical and mental health treatment in the MCSO have raised grave concerns about the level of care being provided to close custody prisoners. On December 7, 1999, just two years after the settlement of a previous investigation, the U.S. Department of Justice again filed a complaint against Maricopa County stemming from their investigation into the medical and mental health services provided to inmates in the jails. The outcome was a second settlement agreement that required the hiring of additional medical and mental health staff; improved medical evaluation services; additional space for the provision of services; an improved distribution system for medications and monitoring of possible side effects; creation of an Infection Control Committee; and improved quality assurance mechanisms (USDOJ Press Release).

In an interview with the *Phoenix New Times*, a former jail nurse described in frightening detail the attitudes of health care providers toward prisoners in the jails:

She witnessed nurses tearing up inmates' requests for medical help without reading them. She saw nurses make diagnoses and order medicines without consulting doctors. She saw nurses purposely frustrate inmates by sending back their requests for medical care with more questions, hoping the inmates would simply give up hope of seeing a doctor. . . . She saw a detention officer bring a man suffering from abdominal pain into a clinic. The man refused to say what was wrong with him, so the detention officer zapped the patient with a stun gun to make him talk (Ortega, "Inmates").

Mental health care is also a concern in the Maricopa jails. The Department of Justice's investigation into the Maricopa jails found that "there have been almost no psychiatric staff increases since 1985 when the prisoner population was roughly one third its present count" (Silverman, "Simply stunning"). The report also states that detention officers had ordered prisoners who were not mentally ill to be confined in the jails psychiatric units. Silverman reported that there were six suicides in the jail in 2002 alone, and seventeen more inmates took their own lives between 2002 and 2005.

²⁰ Prisoner testimony 069, Personal communication to AFSC, 2006

Mental health care for prisoners in isolation is of grave concern for reasons outlined elsewhere in this report. A Lieutenant at the SMU reports that all close custody prisoners get “door-to-door service,” meaning that routine medical and mental health services are provided in their cells rather than in a medical wing, ostensibly to eliminate prisoner movement which they perceive as opportunity for assaults and disturbances. Such services include things like dispensing medications, insulin monitoring, and basic medical checks. For more serious problems, prisoners are escorted to the medical clinic or to the psych unit. This was confirmed, but also clarified, by reports we received from prisoners. In a phone interview, one prisoner described the mental health care as consisting of a jail staff walking down the block and tapping on doors of cells. “If you move,” he said, “they know you are alive and they keep on walking to the next cells.” In his whole time in the Fourth Avenue SMU, he had never met with a psychiatrist.²¹

The Lieutenant explained to AFSC Interns during a visit, that psychiatrists can come in and meet with prisoners, but that “they do so at their own risk.” When questioned further, he explained that guards are given training in how to distinguish between someone having a mental health episode and someone intentionally being disrespectful or threatening to a guard. This was important, the Lieutenant explained, so staff knows when they can use restraints.

All close custody prisoners are to be routinely checked on every twenty-five minutes by staff. If a prisoner expresses suicidal intentions, they are relocated to another area where they are observed every fifteen minutes. If a prisoner actually harms himself or attempts to do so, they can be placed in a safe bed for observation. The safe bed is a restraint apparatus that replaced the restraint chair. There are also safe cells that are padded and have no exposed edges, into which prisoners are to be placed if they are a danger to themselves. At least one prisoner reported being placed in this room for an extended period of time not because he was attempting to harm himself, but as punishment. He reports being housed in such a room for seven months. He had to sleep on the floor because the cell did not have a bed. After the original seven-month stint, he reports having been placed back in the room several other times, each time as a punishment for filing or expressing grievances against the department.

Conclusions and Recommendations

²¹ Prisoner testimony 060, Personal communication to AFSC, 2006

It is no secret that Maricopa County Sheriff Arpaio enjoys the publicity, both good and bad, generated by his controversial policies. However, the media attention lavished on the sheriff's Wild West rhetoric obscures the very serious abuses and even deaths occurring under his watch. A clear line undoubtedly exists between legitimate correctional practice and outright abuse. While the idea of harsh treatment for bad guys is politically popular, the real-world impact of the policies and practices in the Maricopa County Jails raises serious questions regarding human rights violations and long-term public safety.

The presumptive basis for these policies is a simplistic deterrence argument that, while popular, has never been proven to have any direct relationship to crime rates or public safety. The idea is to create a punishment so bad that people will think twice before committing a crime, in order to avoid being subjected to it. Sheriff Arpaio sums up this theory as follows in the *New York Times*, "I want everybody in this county to know that if you commit a crime, you are going into a very bad jail. . . I want people to say, 'I hate that sheriff. I hate his jails'" ("Arpaio's Tough...", 1995).

While politically popular, this approach flies in the face of all criminological evidence as to why people commit crime and what their thought process is at the time. In study after study, statistics show that harsh conditions in jails do not reduce crime. The MCSO itself commissioned Arizona State University to do a study, released in 1998, to determine the effectiveness of the Sheriff's policies. The researchers reported "Arpaio's stringent programs had no measurable effect on inmate recidivism. Inmates were coming back with the same frequency as prisoners who had served in years before Arpaio's tenure. . . We concluded that the additional hardships don't really register any additional deterrent effect" (Ortega, "*Billion-Dollar*").

In fact, there is much more evidence to suggest that getting tough most likely *increases* rather than reduces crime. People who have been denied proper mental health treatment are unlikely to correct their behavior problems on their own. Being repeatedly shocked with tasers or burned with pepper spray rarely results in a greater respect for authority and rules. Being held in solitary confinement does not teach a person how to interact appropriately with others.

The dupes for Arpaio's stunts are real people with families and children who will one day return to Arizona's communities. The issue of placing prisoners in solitary confinement before they are convicted of a crime is pivotal for the people of Arizona. The American justice system has set itself apart by its practice of considering defendants innocent until

proven guilty. Yet in the Maricopa County jails, roughly 70 percent of the people in the SMU are pretrial detainees. Add to this the fact that the decision to house prisoners in close custody conditions can be based on their past behavior rather than a real and immediate risk to the institution, and the resulting situation is deeply troubling.

In summary, the American Friends Service Committee, Arizona, recommends the following:

1. Regularly **release statistics** to the public on assaults, deaths, suicides, injuries, and grievances within the unit as well as recidivism rates. Report on the percentage of prisoners with mental illnesses in SMU versus the overall MCSO prisoner population.
2. Create a **permanent, independent oversight body** under the auspices of the Governor to monitor conditions within the Maricopa County jails on an ongoing basis. The committee will first review MCSO policies regarding placement in SMU, conditions within the unit, and removal from SMU to ensure that these policies are sound and are being appropriately followed. This body must have the ability to investigate complaints with full access to all residents, staff, and documents at any time and be empowered to directly impact MCSO policy and enforce its decisions, including holding the MCSO financially and/or legally responsible for evidence of abuse or neglect.
3. **Increase the number of professionally trained mental health staff in all MCSO facilities.**
4. **Eliminate the use of long-term solitary confinement in Maricopa County Jails.**

VII. CONCLUSIONS

It is the view of the American Friends Service Committee that the use and proliferation of isolation is a symptom of the deeper violence and inhumanity at the core of our nation's retributive justice system. It is a system that seeks to punish rather than to repair harm. Instead of doing justice, it concerns itself with extracting penalties. Viewed in this way, solitary confinement represents the logical outcome of a system that responds to violence with more violence.

How did we get here? It is worth taking a moment to examine the rise of incarceration nationally in order to understand the engine behind this trend. At the heart lies one common reality that contributes to our society's tolerance for more and more punishment: *as a nation, we have turned away from the notions of rehabilitation and forgiveness.*

Since 1972, the prison and jail population in the United States has more than sextupled, from just 330,000 to over 2.3 million today. The rate of imprisonment (number of prisoners per 100,000 population) in the United States is now higher than that of all other industrialized nations. Despite the public's perception at the time, this enormous growth did *not* correspond with an equally dramatic increase in actual crime rates. According to the U.S. Department of Justice's annual national crime victim surveys, crime rates were relatively stable, except for some property crimes, from 1972 to 1993. Between 1993 and the year 2000, crime rates measured by both the annual victim surveys and by the FBI's annual compilation of crimes reported to the police exhibited a steady decline of violent and property crimes, and those crime levels have remained fairly stable since 2000, with slight increases in some categories (Ruth and Reitz, 2003).

What explains our disproportional response to crime? Analysts Magnani and Wray have suggested that the trend toward mass incarceration has been fueled more by the *fear of crime* than by actual crime, spurred on by excessive media attention and the accompanying political rhetoric of getting tough. This fear of crime naturally extends to those we label as criminals, painting them as violent, soulless predators in spite of the research that shows that the vast majority was convicted of non-violent crimes. History clearly shows what humans are capable of doing when they view one another as less than human.

The 1990s saw a rash of tough laws being passed at both the state and federal levels as part of a national war on crime. The public responded negatively to sensational stories of

rampant drug use, violent gang activity, juvenile super predators, and other perceived threats to their immediate safety. As elected officials attempted to outdo one another in a race to see who could be the toughest, trends in sentencing legislation swept across the country. One such trend was mandatory minimum sentencing, which removed judicial discretion, replacing it with determinate sentences that tended to be much longer. In their book, *The Challenge of Crime*, Henry Ruth and Kevin Reitz detail the litany of profound changes made to U.S. criminal policy since the 1970s. In that thirty-year period, America has:

- Increased both the number of statutory criminal offenses and the severity of penalties attached to them;
- Increased the numbers of people in short-term and long-term incarceration, on probation, and on parole;
- Removed from judges much of their discretionary power in sentencing;
- Addressed the drug problem through mandatory minimum sentences, and raised drug possession arrests to 80 percent of total drug arrests, with an increasing share devoted to marijuana use;
- Reinstated the death penalty;
- Moved away from the treatment of juvenile offenders as children and increasingly processed and punished many of them more like adult criminals (Ruth and Reitz, 2003).

The same cultural change in attitudes about crime and punishment that has enabled the astronomical growth in the prison population has also brought about fundamental changes in the nature of imprisonment. Gone are the days in which public officials advocated for increased rehabilitation in prisons and money for prevention programs. The public's tolerance for tougher and tougher punishments has permitted the escalating use of isolation through control units and supermax prisons.

Such a system has proven to create more problems than it solves. Our recidivism rate is astronomical, and research is revealing that thirty years of getting tough has had a limited effect on crime rates. A recent report from Don Stemen of the Vera Institute of Justice revealed that 75 percent of the decrease in crime through the 1990s was attributable to factors other than incarceration. In the case of isolation, we are creating behavioral and mental problems that can plague people for the rest of their lives, hindering their ability to

readjust to life on the outside. This has significant, long-term ramifications for families, businesses, and communities across the United States.

Yet, at every step of the way, there are proven alternatives that are more effective and cost less in both financial and human terms. For example, if facilities were to employ more trained mental health staff members equipped to address behavioral problems of mentally ill prisoners and properly dispense needed medications, mentally ill prisoners would likely receive fewer write-ups, resulting in fewer being sent to supermax units. Similarly, reforms to juvenile justice systems in states like Missouri show that a therapeutic, de-centralized approach can defuse violent episodes and virtually eliminate the need for isolation.

At the very least, there must be a greater degree of transparency within these facilities to allow for monitoring and accountability. If we as a society deem such extreme measures necessary, it is our responsibility to ensure that they are being administered as humanely as possible. When we write off thousands of people based on the label, "worst of the worst," we essentially are saying that their lives are less valuable to us than the lives of others we deem more worthy. Human history is replete with cautionary examples of what can happen when we think of any group of people in this way.

VIII. RECOMMENDATIONS

We recognize that violence within prisons is a serious problem that must be addressed. It is imperative that we honestly examine our current responses and determine how well they are serving prisoners, correctional staff, and the public at large over the long term.

Given the clear applicability of international human rights standards, the evidence that confinement in supermax facilities is harmful to prisoners' mental health, and indications that supermax units may actually exacerbate violence in prisons, it is the position of the American Friends Service Committee that long-term solitary confinement is ineffective and inappropriate in all circumstances. However, we recognize that everyone may not share this view and that our vision of a world in which these units are unnecessary will take time to create.

We have endeavored to offer concrete, reasonable recommendations for reform based on credible research. In recognition that correctional facilities have extremely complex structures that cannot be changed overnight, we have organized our recommendations in order from immediate, short-term steps (generally involving information gathering and oversight) to policy changes to fundamental reforms. We hope that this will offer decision-makers a range of options to appropriately address the problems in Arizona facilities. The following is a sketch of our general recommendations, which are specified further in each section of this report.

Immediate measures

1. All facilities employing any level of long-term isolation should be subject to permanent review and monitoring by an independent body that is empowered to hold the facility accountable for problems and enact necessary reforms.
2. One aspect of this monitoring should be a requirement to collect and release to the public statistical data that indicates the impacts and effectiveness of this type of confinement, including:
 - a. Incident reports of assaults, disturbances, suicides, and suicide attempts by unit;
 - b. Percentage of prisoners with mental illnesses, onset of symptoms correlated to housing in solitary confinement, and treatment requested and received;
 - c. Recidivism rates by unit, mental health status, and length of time in solitary confinement;
 - d. Cost data.

Intermediate measures

3. All facilities should be sufficiently funded to allow for adequate mental health treatment, including maintaining proper staffing levels, providing ongoing staff training, and delivering the community standard of care for all mentally ill prisoners, including timely and consistent delivery of proper medications.

Long-term measures

4. Under no circumstances should prisoners with a history or symptoms of mental illness be held in long-term solitary confinement conditions.
5. Juveniles and pre-trial detainees should never be held in long-term solitary confinement conditions.
6. Eliminate the use of long-term solitary confinement in all Arizona facilities.

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