

Report Shows Devastating Impact of Solitary Confinement on Incarcerated People with Physical Disabilities

By Joshua Manson

Early this year, the American Civil Liberties Union released an extensive report on people with physical disabilities in solitary confinement. *Caged In: Solitary Confinement's Devastating Harm on Prisoners with Physical Disabilities* provides both statistical and anecdotal evidence that people with physical disabilities are frequently subjected to abysmal and flagrantly illegal treatment while incarcerated, and especially while in solitary confinement. In addition to failing to provide accommodations for people with disabilities, prisons often use the disabilities as the sole justification for placing people in isolation.

According to the report, the percentage of people with disabilities is significantly higher in prison than it is in the U.S. population as a whole. In Florida, nearly one in five people in the state prison system has been assigned "some kind of assistive device." In California, nearly one in ten people in state prison has a hearing, visual, or mobility-related disability. Equally troubling, other states do not even track data on the number of incarcerated people who have disabilities.

According to the report, people with disabilities are routinely subject to solitary confinement for convenience, because facilities contain no other housing for them. It tells the story of a blind man who, after asking why he was placed in solitary confinement, was told that "prison authorities were trying to figure out where to house him." This, according to the report, is a direct violation of the Americans with Disabilities Act (ADA).

Other individuals have been sent to solitary confinement as punishment for the symptoms or effects of their disability. One man who is deaf, states that he was subject to solitary confinement for diso-

beying a command that he could not hear, and was not even aware of because it was made behind his back.

The report shows that the grievances filed by people with disabilities are often ignored or rejected, leaving them no way to get out of solitary or improve their conditions.

People with physical disabilities often suffer pain, humiliation, and permanent harm while being held in solitary confinement. One man with quadriplegia was placed in an isolation cell 24 hours a day for a week "while...prison officials worked to find a facility to place him." For the first two days in solitary, he was denied access to his medication. This brought on a dangerous and potentially lethal condition that resulted in nearly 48 hours of "painful muscle spasms," "violent seizures," and self-urination.

While solitary confinement has been proven to cause severe psychological damage to *all* people who endure it, isolation can be uniquely devastating to people with physical disabilities. To make matters worse, their disabilities often make it harder for them to communicate their mental health needs or to participate in group therapy or other mental health treatments.

One man with a spinal cord injury was held in solitary confinement in a county jail because no appropriate booking cells could fit his wheelchair. The resulting systemic mistreatment caused him to become so depressed and depressed that he eventually started cutting himself.

People with physical disabilities that limit their mobility are subject to obvious physical dangers when they are placed in solitary, including architectural barriers; limitations on possession of personal property including medical equipment; disrupted

medical treatment; and a lack of access to physical therapy, causing a decline in muscular health and a host of adverse health outcomes.

Solitary is also devastating to people with sensory disabilities. A deaf man sent to solitary confinement after an altercation was left unable to communicate or express his version of events during the incident and subsequent disciplinary proceedings because of the prison's lack of sign language interpreters. He also could not communicate his injuries after being sprayed with a chemical agent by prison staff and was denied medical attention.

The report concludes with a number of recommendations to lawmakers and policymakers at the local, state, and federal levels, and offers a set of general principles for the treatment of people with physical disabilities in prison in compliance with the ADA.

The report calls for a ban on the placement of people with physical disabilities in solitary confinement "except in rare and exceptional cases where the person poses a security threat to self or others," and even then for only short durations. It also calls for an end to the use of solitary for protective custody. In addition, it calls on corrections departments to improve data collection and reporting, to improve training of and communication between medical and security staff, and to develop processes by which people with physical disabilities can request accommodations, among other reforms.

These reforms would serve as a valuable first step in relieving the suffering of one group of especially vulnerable individuals in prison. Ultimately, however, these reforms—and more—must be applied to all people behind bars in order to end the routine torture of incarcerated people in the United States.

About Solitary Watch

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Founded in 2009, Solitary Watch (www.solitarywatch.com) is a national watchdog group that investigates, reports on, and disseminates information on the use of solitary confinement in U.S. prisons and jails. In the past seven years, the work of Solitary Watch has significantly expanded public awareness and understanding of a once-invisible domestic human rights crisis: 80,000 to 100,000 living in complete isolation and sensory deprivation for months, years, and even decades. It has also stimulated mainstream media coverage, spurred and supported national and local advocacy campaigns, and informed government policymaking.

The print edition of Solitary Watch is available free of charge to currently and formerly incarcerated people and their families and advocates. To receive future copies, please send a request to the address or email above. We also welcome accounts of life in solitary confinement, as well as stories, poems, essays, and artwork by people who have served time in isolation. Please send contributions to “**Voices from Solitary**” at the address above, and tell us whether you would like us to use your name or would prefer to remain anonymous.

Note: We regret that we cannot offer legal assistance or advice and cannot respond to requests for this type of help. Legal materials sent to us cannot be returned to the sender. We also cannot forward mail to others. Thank you for your cooperation.

Please Take Our Survey on Alternatives to Solitary Confinement

Later this year, Solitary Watch will be completing a report on alternatives to solitary confinement. Our intent is to show how long-term solitary can be replaced with more humane and effective alternatives, in order to reduce and eventually eliminate this practice in U.S. prisons and jails. For this project, we have researched and visited some prisons that have implemented alternatives to solitary confinement. We have also spoken to dozens of officials and experts. Now we want to hear from you—the incarcerated individuals who have experienced solitary firsthand.

If you would like to participate in our survey, please write the answers to the following questions on paper and mail them to the address below. Your answers can be as long or as short as you like. Feel free to skip some questions, and please add any additional thoughts you want to share with us. **No names will be used in the report**; if we quote you we will use only your first initial and the state where you are being held. All individuals who respond to the survey will receive a copy of the full report if permitted by prison rules; if not, they will receive a summary.

1. How much time have you spent in solitary confinement? What is the reason you were sent to solitary?
2. Many prison officials say that solitary is needed to punish individuals who break prison rules. Are there other ways to make sure the most important rules are followed? What ways do you think would be most effective?
3. Sometimes solitary is used for “protective custody.” How else could prisons safeguard vulnerable people such as gay/lesbian/transgender individuals, juveniles, people with disabilities, or people convicted of sex offenses?
4. Some people are placed in solitary because of behavior that results from mental illness. What other approaches would you suggest for dealing with mentally ill people who end up in prison?
5. Some people are placed in indefinite solitary (often called Administrative Segregation) because they are considered a threat to the “safety and security” of the prison. Do you think anyone belongs in long-term solitary confinement? If so, who and why? If not, what do you think should be done instead to keep prisons safe and secure?
6. Is solitary needed to prevent gang violence in prison? If not, what are some possible alternatives for dealing with rival gangs and making sure no one gets hurt?
7. What are some things that can be done to make conditions better for the people who need to be separated from the general population, even for a short time?
8. Have any reforms of solitary confinement (such as step-down programs or mental health units) been made in your prison system? Have you participated in them? Please describe these changes and tell us what you think of them.

Please send your survey responses to: Solitary Watch Alternatives Project, 123 7th Avenue #166, Brooklyn, NY 11215. Thank you for helping us with our report and for making your voices heard!

Juan Méndez: Exposing Torture

Interview by Sarah Shourd

In November 2016, Juan E. Méndez stepped down after six years as the United Nations Special Rapporteur on Torture, the UN's chief torture investigator. During his tenure, Méndez became a leading voice opposing solitary confinement in U.S. prisons. He had experienced solitary himself as a young man in Argentina in the 1970s after being arrested for his political beliefs. The following is an excerpt from an interview with Méndez conducted last year.

After forty years working on human rights, I was appointed to the position of United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2010. I'm now on my second (and last) three-year term.

The Special Rapporteur's mandate calls for me to transmit urgent appeals to countries with regard to individuals reported to be at risk of torture, undertake fact-finding country visits, and submit annual reports to the Human Rights Council and the General Assembly.

Precisely because as Special Rapporteur I have such a large mandate—exposing torture wherever it may take place—the most I can do is select areas where I think I will have an impact. The case of solitary confinement is interesting because when I wrote my report on solitary confinement in 2011 I had no idea it would have such resonance. My report stated unequivocally that 22 or 23 hours a day alone in a prison cell for more than 15 days at a time can cause permanent, lasting psychological damage and can constitute torture. It was surprising, and encouraging, how quickly people picked it up and how far they've been able to take it.

Prior to my report, international law had been largely silent on the issue, in terms of what constitutes solitary con-

finement; when these conditions can be considered “cruel, inhuman and degrading treatment”; and when they are in fact torture.

In my opinion, indefinite isolation is always torture, and there's also a question of degree. The science we have shows that the mind starts working differently after 15 days in solitary, so my report specifies that any period



over 15 days should be subject to stringent review. If a prisoner has books, the ability to write and receive letters, television and family visits—then maybe the period can be extended to 30 days maximum, but only when that is absolutely necessary. It has to be counted in days, maybe weeks, but never months and definitely not years.

The public generally associates torture with physical violence; they sometimes have a hard time accepting that there are equally brutal forms of mental torture. It's interesting though—back in the 1940s and 1950s, when stories came out about Communist regimes holding prisoners in isolation for very long periods of time, we had no problem calling that torture.

Different people will react differently to the same conditions. For juveniles and the mentally ill, I've recommended a complete ban on isolation. But the essential thing is that when you subject someone to these conditions you don't know how he or she is going to react. One person may be more or less okay; the next may have perma-

nent mental damage. The state is not allowed to speculate. If there's a chance that someone may have irreversible effects, then the state is responsible.

I think it is safe to say that the United States uses solitary confinement more extensively than any other country, for longer periods and with less guarantees. Over the last 30 years there's been huge overcrowding in U.S. prisons due to the explosion of the incarcerated population. This has resulted in more violence in prisons, and we've seen solitary confinement mushroom.

In cases like California, we know that they send prisoners to solitary based on their “association” with gangs. Even recognizing that the state has a responsibility to deal with prison violence and with gang affiliation doesn't suspend our long-revered principles of due process and presumption of innocence. When people go to prison they don't surrender all their rights.

In the federal system, solitary is used extensively in counterterrorism cases. In those cases, solitary is used to try and break their will and force them to accept a plea with perhaps a long sentence. Using isolation as a way of extracting confession is clearly prohibited in the Convention Against Torture, to which the U.S. is a signatory.

The United States may push for good human rights practices around the world, but first it's going to have to change its own practices. Other countries look to the U.S. for how they do things, and how we build and run our prisons is no exception to that. That is why reforming prisons is so urgent, and the most urgent part is reforming solitary confinement, because in a real way the whole system relies on it. So we need to keep chipping away, state-by-state, lawsuit-by-lawsuit, and hopefully slowly shrink the problem.

News Briefs

NATIONAL — On March 7, Supreme Court Justice Stephen Breyer released an opinion condemning solitary confinement as a potential violation of the Constitution's prohibition on cruel and unusual punishment. Breyer dissented from the Court's decision not to delay the execution of Rolando Ruiz, whose attorneys argued that his execution for murder should be stayed because of technical flaws in prior court proceedings and his extended confinement in isolation. Among the cases Breyer cited was *In Re Medley*, a 127-year-old Supreme Court Case that found solitary confinement to be "too severe" for use in prisons.

LOUISIANA — In March, attorneys for three people in solitary confinement at Louisiana State Penitentiary filed a class action lawsuit against prison officials. The suit argues that the conditions faced by the plaintiffs, who are on death row, violate their constitutional rights. People on death row at Louisiana State Penitentiary are confined in isolation in small, windowless cells for 23 hours per day, and they are even kept apart from others during the single hour they spend outside of the cell. This extreme isolation, the suit notes, has "harsh repercussions" on the health of those who experience it. The suit asks the court to require prison officials to improve conditions for everyone on death row at the prison.

MAINE — The Maine Department of Corrections has drastically reduced and reformed the use of solitary confinement in its prisons. Prior to 2015, approximately 45-50 individuals were held in solitary confinement in the Maine State Prison; as of April 2017, the number had dwindled to just seven. In addition, the prison has implemented a system of tiered privileges which both offers people a chance to earn their way into less restrictive units and provides support throughout survivors' transition from solitary confinement to the general population.

This new system has curtailed the total number of disciplinary infractions in the state's prisons, as well as the abuse and suffering of the men and women held there.

NORTH CAROLINA — A 90-page report on solitary confinement in the North Carolina prison system identified some improvement but an urgent need for further change. The report, released in April by the Vera Institute of Justice, lauded the reduction in the number of people held in solitary in the state, which has decreased by more than half since 2012. However, it also noted several significant problems. These included the use of solitary confinement to discipline minor infractions, the use of long-term solitary confinement, the lack of alternatives to solitary confinement for individuals needing protection, the disproportionate number of Black people in solitary confinement, and the lack of support for survivors transitioning directly from solitary confinement back into the general population or the free world.

TEXAS — Solitary confinement on Texas death row is torture, concludes a report released by the Human Rights Clinic at the University of Texas School of Law in April. The report analyzed survey responses from 32 men formerly incarcerated on death row in the state's Polunsky Unit. It found that Texas's death row policies are "particularly draconian": The state immediately places condemned men in solitary confinement and prohibits them from sharing meals or recreational time with one another. The prolonged isolation, combined with the stress of awaiting execution, has caused extreme suffering and serious psychological harm. These practices, the report states, are in violation of international human rights standards.

NEW YORK — Nearly 300 activists, lawyers, mental health experts, survivors of solitary confinement, and families with incarcerated loved ones gathered in Albany in May to demand the state end the practice of long-term solitary. Organized by the New York Campaign for Alternatives to Isolated Confinement, the advocates met with approximately 100 legislators and held a rally in support of the Humane Alternatives to Long-Term (HALT) Solitary Confinement Act. That legislation would change the criteria for placement in solitary to only the most dangerous behaviors, as well as limit the amount of time a person can spend in solitary to 15 days consecutively and 20 days within any 60-day period. It would also replace long-term solitary with an alternative program prioritizing rehabilitation over punishment and mandating significantly more out-of-cell time. The HALT Act is gaining ground but failed to pass before the close of this year's legislative session.

NATIONAL — In May, the American Civil Liberties Union filed a lawsuit calling on the U.S. Department of Homeland Security to make available documents related to the abusive treatment of hunger strikers in Immigration and Customs Enforcement (ICE) detention facilities. The lawsuit was prompted by incidents where hunger strikers have been subjected to force-feeding and solitary confinement as punishment for their participation in strikes protesting inhumane prison conditions, as well as lack of access to lawyers and bond hearings. The suit aims to expose records ranging from general policies regarding hunger strikes to documentation of specific cases. As immigration policies and prison conditions grow more harsh under the new presidential administration, ACLU attorney Carl Takei believes that the strikes are likely to increase in number despite ICE's punitive tactics.

News Briefs by Madeline Batt