



Urban Justice Center

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**“Reassessing Solitary Confinement:
The Human Rights, Fiscal and Public Safety Consequences”**
Senate Judiciary Committee
Subcommittee on the Constitution, Civil Rights and Human Rights

June 19, 2012

Written Testimony of
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Urban Justice Center / Mental Health Project

Dear Chairman Durbin and Members of the Subcommittee:

I commend you for convening this hearing and urge you to take action to end the overuse of solitary confinement in the United States. For the last decade, the Urban Justice Center’s Mental Health Project has collaborated with other organizations, family members, and formerly incarcerated individuals in opposing the placement of people with mental illness in solitary confinement in the New York State prisons. We recently began organizing a similar effort in response to the expanded use of solitary confinement in New York City jails.

We submit this testimony to highlight the particularly noxious effects of punishing people with mental illness by isolating them in a barren cell without social contact and meaningful activity for 22 to 24 hours a day. While we support restricting the use of solitary confinement generally because of its damaging psychological effects, we are particularly opposed to the placement of people with mental illness in such a toxic environment.

I am confident that you will receive persuasive testimony from academics, attorneys, and physicians documenting the horrendous consequences of placing people in solitary confinement. But the personal accounts of the effects of solitary confinement from those who have experienced it and their family members establish beyond question the immediate need for Congressional action. To relate these experiences, we have enclosed excerpts from “Faces of the SHU,” a collection of testimonials about the “Special Housing Units” (“SHU”) in New York State prisons.

The Urban Justice Center’s Mental Health Project has advocated on behalf of people with mental illness in the criminal justice system since 1998. Our work includes successful class action litigation to require New York City to provide discharge planning to individuals receiving mental health treatment in the city jails, legislative advocacy in support of a law limiting the placement of people with serious mental illness in solitary confinement (known as the SHU Exclusion Law), and grassroots organizing in support of alternatives to incarceration for people with mental illness. Through this work, we are deeply familiar with the difficulties people with mental

illness experience within correctional facilities and in accessing services upon release.

We currently have a public health crisis in the U.S. – jails and prisons have become the insane asylums of the 21st century. Our jails and prisons treat more people with serious mental illness than hospitals. Rikers Island in New York City and the Los Angeles County jail are the two largest psychiatric facilities in the country. According to a 2010 study by the Treatment Advocacy Center and the National Sheriffs' Association, there are more than three times as many people with serious mental illness in jails and prisons than in hospitals. As many as 40 percent of people with serious mental illnesses have been in jail or prison at some point in their lives.

Fundamentally jails and prisons are not designed to provide for the needs of people with psychiatric disabilities. They are strict, militaristic, closed systems which are designed to punish and control. And people with mental illness face enormous difficulties while incarcerated there. Many are unable to conform to the rigid requirements of prison life. Untreated mental illness leads to behavior that violates prison rules and results in disciplinary charges. For instance, a person with schizophrenia may hear voices demanding that he respond, making it difficult or impossible for him to remain silent or stand still when ordered to do so by a correction officer. The punishment for violating prison rules is often placement in solitary confinement, where the person is locked in a cell for 23 hours a day, deprived of social contact and basic amenities.

This isolation further exacerbates symptoms of mental illness and makes people with mental illness extremely vulnerable to psychiatric decompensation. In turn their symptomatic behavior can lead to additional disciplinary charges and greatly prolong their period of solitary confinement. People with psychiatric disabilities spend disproportionately longer periods in solitary confinement than the general prison population. According to the Correctional Association of New York's 2004 report, the average disciplinary confinement sentence of individuals with mental illness was 38 months – six-and-a-half times longer than prisoners generally.

Moreover, in New York there is no limit to the amount of time that a person can spend in solitary confinement. Before the enactment of the SHU Exclusion Law, people with mental illness could accumulate years of disciplinary confinement. In fact, some individuals received solitary confinement sentences that lasted beyond their maximum release date from prison. In these cases, the person could be released directly from solitary confinement to the community.

Individuals who continue to act out while in solitary confinement are subjected to further punishments. For example, in New York State prisons, such punishment can include the imposition of a restricted diet, known as "the loaf," a dense mixture of flour, potatoes, and carrots served three times a day along with a portion of raw cabbage. Although the SHU Exclusion Law limits when a person with mental illness can be placed on a restricted diet, it still allows the diet to be imposed in exceptional circumstances.

In solitary confinement, people with mental illness are at increased risk of suicide. Between 2007 and 2010, about one-third of the suicides in New York State prisons occurred in solitary confinement units although only about six percent of the prison population was housed there.

Inadequate mental health treatment in prison is one reason that people with mental illness end up in solitary confinement. Upon admission to prison, many people do not receive thorough psychiatric assessments, so their mental illness goes untreated. Other people receive inadequate mental health treatment – psychiatric medications are changed or discontinued and little to no therapeutic interventions are provided other than medication.

In addition, the stigma of mental illness leads some incarcerated people to refuse psychiatric treatment. Being identified as a person with mental illness can make someone a target of abuse from other prisoners and correction officers. Generally psychiatric medication is distributed in a public manner, so receiving mental health treatment confidentially is not an option for most incarcerated people.

The detrimental effects of being in solitary confinement do not end when the person walks out through the prison gates. Many people report lasting psychological damage as a result of the time spent in isolation. People with mental illness face enormous obstacles rejoining the community upon release. For those even further traumatized by periods of solitary confinement, the possibility of reintegration is slim indeed.

As a society, we should strive to ensure that people with mental illness receive adequate mental health treatment and supportive services in the community so that they avoid the criminal justice system all together. But to the extent that people with mental illness are incarcerated in jails and prisons, they should be categorically excluded from placement in solitary confinement.

The faces on the following pages reveal the humanity of those labeled “prisoner.” I encourage you to look at them and hear their stories. We must not countenance correctional policies which we know to inflict emotional distress on people who have mental disabilities.

I urge you to take action to end this practice in the United States.

Sincerely,

Jennifer J. Parish
Director of Criminal Justice Advocacy
Mental Health Project

Enclosure

Robert



My godson Robert was diagnosed with bipolar disorder at age twenty-one and hospitalized many times. He had to drop out of college because his disability made him too unstable to continue. He fell through the cracks of the mental health system and ended up in prison with a very severe sentence for minor acts.

Prison is the last place on this earth that a person with a psychiatric disability needs to be. If you want to do the worst possible thing to a person with a bipolar condition put them in SHU when they're in a state of mania (which is usually

the case when they go in to SHU) without treatment and without human contact. **In SHU they are cut off in a nine-by-six-foot cell all alone with a racing mind. This is the ultimate abuse for someone who is suffering.**

Robert has been in Central New York Psychiatric Center four times. More than once, he was sent back to prison, still unwell, and immediately his symptomatic behavior led to SHU tickets. **I was crying on the phone, pleading with them to keep him in the hospital.** They still sent him back to prison. Almost immediately a counselor noticed that he was "racing" and he was placed in the mental health observation unit for ten hellish days until he was sent back to the hospital.



Robert's depression was extreme after his second SHU time. He didn't want to see anyone any longer and he didn't write me or call and he lost a lot of weight. **Robert told me, "When I went in to SHU I knew it was all over for me. Don't think about me as the person that you knew, because I'll never be the same man again."** These words were painful for me to hear because I knew what a fun-loving free spirit Robert use to be. He has trophies from his dirt bike-racing days, he was in *Ripley's Believe It or Not*, and he was such a good dancer that as a teenager he starred in a Burger King ad.

Prison is a nightmare for Robert. He was moved from facility to facility, experiencing abuse from guards and other inmates and he was given inadequate mental health care. As often happens, this led to attacks by the guards. **Robert has experienced three major assaults, resulting in severe pain and trauma.** I was always calling the prison to tell them how ill Robert was. Nobody understood what I was trying to convey about the patterns of his illness and the constant changes in his condition and how he was in need of consistent treatment. **As a family member it's so painful to see the suffering that you're powerless to prevent. You're just watching your loved one deteriorate and experience violence and brutality that is unimaginable.**

—Leah, Robert's godmother

My brother Alberto has been diagnosed with schizophrenia and an anxiety disorder. I want to make palpable the grave inhumanity and suffering inflicted on individuals and families who have experienced what it means to do time in the SHU.

Alberto has been a victim of excessive physical violence used as a safety measure or protection for the prison officials. He has been

denied phone calls home, monthly care packages, access to recreational and educational programs, and a television and radio. He has lost significant amounts of weight. He has to hold up his pants to prevent them from falling down. He has been denied a transfer to a facility with a residential treatment center.

My mother, cousins, and I are devastated by the deterioration of my brother's mental state. ***His affect is flat. He has a glazed look in his eyes. He has lost touch with reality.*** He can no longer engage in a coherent or relevant conversation or even play a simple game of cards. His letters are incoherent. Every letter is the same, with the same twenty sentences.

Alberto becomes easily agitated during our visits. He comes in shackled. I can't even give him a hug. They treat him like he is a caged animal. It's like he is a dog on a leash being restrained. He's behind bars already, there's no need to shackle him too. When we were entering the facility to visit Alberto, an officer asked me who I was going to visit and when I told him he said, "Oh, my God, why are you going to visit him?"

He was at Central New York Psychiatric Center for about six months. Right from CNYPC he went to keeplock before he was transferred to Upstate. During our last visit he asked to go to the bathroom and the officer said no and he had to wait for the entire visit to use the bathroom. He got beaten after we left on that visit.

He is no longer making plans for what his life will be outside of prison. Instead—with only four months left until his release—he is talking about appealing his case. This wish of his shows his irrational state. The psychologists have said, "He seems fine, at least when I speak with him."

Of the nine years that he's been in prison, he has spent seven years in the SHU.

I am very fearful for what life outside of prison will be like for Alberto. ***He has not been rehabilitated to function in society. He's been set up to fail. He's coming back needing to be resocialized.***



—Lissette, Alberto's sister

Mark



My brother Mark was officially diagnosed with depression when he was a teenager. He hears voices, is paranoid, and shakes a lot. He wasn't getting adequate treatment in the community prior to his incarcerations. He's been in and out of jails and prisons since he was twelve years old. He's been incarcerated for the past eight years.

His demeanor is very quiet and isolated. On the street people tested him because he is withdrawn. The same thing has happened to him in prison. He told me he couldn't be in general population

because people continuously bother him. **In prison, if you seem like a person who can be beaten up or bothered, then the guards and inmates target you.**

For the first years of this incarceration he wasn't connected to any mental health treatment. That's when he would run in to problems. On this bid he has been hospitalized five to ten times.

He'll either respond to threats or try to hurt himself. He has recently tried to put a sheet around his neck to choke himself. He has tried to starve himself to death on other occasions. He's lost a lot of weight because of this and also because he thinks that the COs are poisoning his food. **He has told me that he didn't want to live anymore.**



The COs have been taunting him, trying to get him riled up to do something. They continually frisk him and touch him inappropriately. They do this in an attempt to demean him and break him.

They hit him with sticks when he went out for rec, but he is too afraid to file a grievance. **He's too afraid to take his one hour of out of the box per day because he's afraid that the guards would hurt him, so he stays in his cell for twenty-four hours a day.** The only time he comes out of his cell is to see mental health staff once every two weeks.

He's been in SHU for two years. He's going to be there for almost another year still to come. **Since he's been transferred to a new facility he's already tried to kill himself, and it's been less than a month. The prison staff won't tell me anything. This is inhumane.**

—Karen, Mark's sister

My son Dennis was diagnosed with attention deficit and hyperactivity disorder at seventeen years old. His doctors have said that he may also have a mood disorder. ***His symptoms have definitely gotten worse since he was locked up—he's incredibly hyperactive.*** He was first locked up at fifteen years old, and since then he has been in and out of jails and prisons. He is now thirty years old, and he has at least another two years on this bid. He feels trapped, and is only getting more and more agitated.



I know him as a caring and sweet person. He always use to be very generous. He used to buy me flowers and mail me cards, but now he holds on to things as if they could be taken away from him. When he last came out of prison, he was very angry and frustrated.

He told me the other day, "They're going to keep locking me up, Mom." He is getting more and more agitated, and I am afraid for him. He yells and screams and punches the bars even though it hurts his hands, to dispel some of his agitation.

This is not the place for him to be rehabilitated. He is not given adequate treatment for his disability. I just feel like they're going to make an animal out of a person that they treat like an animal. He's never going to be normal again.

He has been in and out of SHU and keeplock for many insignificant, nonviolent reasons. He is frequently tormented by guards, who threaten to plant weapons on him. He was given three months in keeplock for not having his sweater tucked in enough.

Dennis has suffered from sexual abuse, and from being tormented by guards.

On his last bid they would humiliate him when they would take him to shower. He was forced to walk in compromising positions. The guards went out of their way to humiliate him.



I was just cleaning the house today and I looked up and there was his picture, and it breaks my heart—I just don't know what to do, I just worry so much, and know that he is only getting worse in there.

—Sue, Dennis's mother

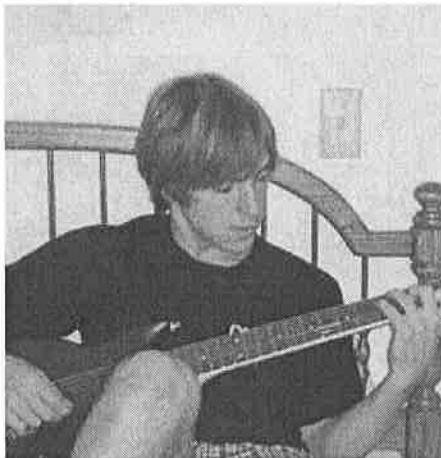
Seth



My son Seth was fifteen when he was diagnosed with depression. He was put on medication and hospitalized four times in three years. ***Just after his nineteenth birthday he became very, very sick.*** He was diagnosed as having a bipolar disorder with “psychotic and paranoid features.” Instead of being hospitalized, he was incarcerated. At first he was taken to Central New York Psychiatric Hospital, very manic. All I wanted to do was to just hold him. They allowed a hug at the beginning, but it was timed and they pulled us apart after a few seconds. After a few weeks, Seth was moved to another facility.

Seth spent the first eight months of his incarceration in solitary confinement. He was placed in SHU because he asked a guard, “Why are you being so mean?” At another time, he was given SHU time for defending himself against a rapist in the shower. I visited him every week. ***He was suicidal, talking about killing himself, saying that he couldn’t stand it.*** All this time the staff refused to give him his medication. Seth wanted to see a psychiatrist. He asked, but they refused. He was still in SHU. He was only nineteen years old.

Seth was classified as Mental Health Level II and given only a low dose of antidepressant. ***The guards who escorted him to where he was given his medication made fun of the mentally ill inmates. They would say, “You buggy people, you’re all insane.”*** Seth seemed agitated when I would visit. He was in solitary confinement.



Then he was in a mental health observation room, and no one would tell me why. He was in solitary confinement for twenty-four hours a day, no recreation time, no letters, and no phone calls for two weeks. During this time he had no water for fifty-two hours. He had to pound on the glass to get someone’s attention because he needed water. Finally someone threw in a bag of ice. The toilet didn’t flush. He found a plastic bag in his cell to cover up the stench. He had

nothing to do, nothing to read.

He said, “I am one thread away from being insane, Mom, I can’t hold on much longer.” ***After I inquired about his placement in SHU, the superintendent told me, “I don’t know what to do with your son—he slipped through the cracks.” He also told me, “Your son’s going to be disciplined, because he has a Mental Health Level II classification.”***

Seth is a good musician and loves to play the guitar. But he refuses to be given a guitar because he says the guards will simply break it, especially when they put him in the SHU. He says he is practicing for SHU life by just sitting and doing nothing.

—Jennifer, Seth’s mother

I've suffered from mental illness all my life.

Not understanding my condition led me to prison on several occasions and while in prison, due to my condition not being understood, I always was subjected to being placed in solitary confinement.

Being in SHU always caused my condition to get worse, with hatred and frustration for not being understood and not being assisted with the services that could've been provided.



While in SHU, treatment is rarely administered. The environment itself is not structured to assist people like me, being overwhelmed with mental illness. Oftentimes, I sought to escape the tormenting thoughts that ran through my mind, but couldn't. At times visions came to me so real that I thought there was no gaining any vestige of sanity back.

I felt hopeless, I was made to believe I had nothing to lose, no one is helping me, no one understands what I'm going through, and no one wants to stop the punishment I was receiving due to being mentally ill and leading to my placement in solitary confinement. I was so tired of going through the same routine over and over again, not being heard, understood, assisted in getting well. I was just getting worse, every time I was placed in solitary confinement. Being in solitary confinement with a mental illness, with nothing to do, receiving inadequate treatment, wanting to get better, not being allowed, being subjected to that punishment, that hostile environment, that disregard.

My hopes were diminished and I wanted to end it all. Suicide was my only option and I failed at that due to officers not letting the last breath escape from out of my lungs. Forced to continue life in torture, carrying that anger and frustration from not being understood and helped, foreseeing the cycle of my life, I always thought, "What do I have to live for?"

I've been made worse than I ever was before I entered prison, through being subjected to continuous placement in special housing unit as punishment. I am always searching and carrying the burden of what I've been made to become.

No one should be subjected to such a tormenting situation. ***If only the opportunity was afforded to others while in prison, the opportunity to actually receive the help they need in understanding their mental illness. If only an environment other than "special housing unit" was available.***

—Carlos

Ron



My son Ron suffered from a traumatic brain injury. He has a lot of difficulty following commands. It takes him time to process information. He can be extremely paranoid. His affect is mostly withdrawn. Much of his mood swings have to do with his being in SHU for years and years. Prison isn't a suitable place for him. He isn't getting any therapy or cognitive stimulation. He just gets tickets and SHU time. The Department of Correctional Services isn't prepared to take care of his condition.

Ron wasn't capable of testifying at his trial. When I first started to visit him I would have to repeat my questions to him. He would ask me the same questions over and over. He has trouble concentrating. I can tell that he is overwhelmed just by talking to him. He looks frightened after all this time in prison. Ron has been incarcerated for twelve years.

Because of Ron's psychiatric disability he is frequently abused by the correction officers. They pick on him and give him SHU tickets. They give him tickets for walking slowly—he is partly paralyzed and has a metal plate in his leg. The COs call him "stupid," "dumb," or "slow." This hurts him deeply. He's not dumb, he has a brain injury. Ron would have gotten better treatment if he hadn't been sent to prison.



Ron has been in SHU for almost his entire incarceration. He has been sent there for fictitious charges. He is targeted for his disability. While he's been in SHU he's experienced beatings, starvation, being called mentally "sick," and being ignored. He tells me he's very sad, very cold, and is not given changes of clothing. The COs steal his blankets. The staff says he is "bad."

Ron was transferred to a facility where he went straight to SHU. I wasn't getting any letters from him. I would call and they were telling me he was OK and meanwhile they were starving him to death. They were threatening to kill him. ***He said, "Mom, they're starving me. I'm not eating." He was so hungry he ate paint chips off the wall. He looked like he was dying.***

I kept begging them to send him to Central New York Psychiatric Center. He was decompensating more and more.

I can't begin to count the number of times that Ron has been sent to CNYPC. If I was to make an estimate I would say 30 to 40 times.

—Kathy, Ron's mother