

January 16, 2015

The Honorable Eric H. Holder, Jr.
United States Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Holder:

Our diverse organizations represent a broad coalition of civil rights advocates, faith community leaders, human rights organizations, mental health practitioners, academics, lawyers, and former prisoners all concerned about the over-use of solitary confinement in the federal Bureau of Prisons (BOP), as well as the Bureau's imminent plans to increase its use of solitary and other forms of isolated confinement with the opening of the new Thomson Correctional Center in Illinois. The creation of more solitary confinement beds at this time simply makes no sense as BOP is also claiming that it has reduced and will continue to reduce the use of isolation in the federal system. This stark contradiction raises serious questions about the Bureau's efficient use of scarce taxpayer dollars and its disregard of the need for humane policies and practices that foster rehabilitation of prisoners and better public safety outcomes.

We write to ask the Department of Justice (DOJ) to delay a final decision about BOP's expansion of such isolated confinement units until the upcoming findings and recommendations of the outside audit team contracted to review BOP's use of solitary confinement are carefully considered by your department.ⁱ Moreover, we seek a commitment from DOJ to reduce BOP's use of solitary and other forms of isolated confinement now and in the future.

BOP's plans to significantly expand its capacity to house prisoners in conditions of extreme isolation at the Thomson facility, which has a reported 1,600 cells,ⁱⁱ flies in the face of current trends across the country where states as diverse as Texas, Maine, Massachusetts, Colorado, New York, Mississippi, New Mexico, and Arizona among others are taking steps to reduce reliance on solitary confinement due to the enormous human, fiscal, and public safety costs of the practice. BOP's actions are also contrary to the work of DOJ's Civil Rights Division in reducing the use of solitary in state and local facilities, especially for individuals with mental illness and cognitive impairments, and your own statements regarding the need to eliminate the use of solitary on incarcerated youth.

BOP's expansion of solitary and other forms of isolated confinement is directly contradicted not only to good correctional practice, but by Director Samuels' testimony that the federal system is in fact reducing its use of such housing and is engaging in an independent audit of the Bureau's use of isolation.ⁱⁱⁱ At this time, that audit is still pending and the findings have yet to be made public.

Likewise, in May 2013 the Government Accountability Office (GAO) issued a damning report on BOP's use of isolated confinement.^{iv} The report found that, despite BOP's extensive use of isolation (7% of BOP's 217,000 prisoners), BOP has never assessed whether the practice contributes to prison safety.^v Nor has BOP assessed the psychological effects of long-term isolation, although its Psychology Services Manual notes that extended periods in isolation "may have an adverse effect on the overall mental status of some individuals."^{vi} The report concluded that BOP does not adequately monitor solitary and other forms of isolated confinement housing to ensure that prisoners receive sufficient food, out-of-cell exercise, and other necessities.^{vii} Moreover, GAO's assessment confirms other criticisms of BOP's segregation practices. In June 2012, eleven prisoners at ADX Florence, BOP's "supermax" prison in Colorado, filed a class-action lawsuit on behalf of all individuals with mental illness held at the facility. The lawsuit alleges that, contrary to BOP's written policies, prisoners with mental illness are routinely assigned to solitary confinement at ADX, and are unconstitutionally denied necessary treatments.^{viii} The complaint describes frequent incidents of self-harm and highly symptomatic behavior among the prisoners with mental illness who are held at ADX.^{ix} Most recently, the Office of the Inspector General identified a "Persisting Crisis in the Federal Prison System" with continually climbing costs coupled with ever-increasing safety and security problems within the BOP.^x

In spite of these criticisms, and although the independent audit of BOP's use of solitary and other forms of isolated confinement is not yet complete, BOP is now opening another prison entirely dedicated to such confinement at the Thomson Correctional Center in Illinois.^{xi} During a November 2013 Senate Judiciary Hearing, BOP Director Charles Samuels indicated that the agency was planning to bring Thomson online as another "supermax" facility, like the Florence ADX.^{xii} While BOP may be preparing to add more ADX beds, the existing ADX facility in Florence, Colorado, which houses prisoners in the most extreme forms of isolation in the federal system, has a reported capacity of 490 supermax beds, of which just 404 are now in use.^{xiii} Opening Thomson as a "supermax-like" facility therefore represents a significant and unnecessary expansion of BOP's capacity to subject prisoners to extreme, long-term solitary confinement.

BOP's action to expand its use of isolation, while simultaneously claiming to reduce its use, simply makes no sense and cannot be justified. We are deeply concerned that BOP's decision to convert Thomson Correctional Center into another "supermax" prison not only constitutes an example of extreme government waste of scarce taxpayer dollars, but that the Bureau is willfully implementing policies and practices which will cause harm to and potentially violate the rights of thousands of prisoners—with negative public safety outcomes for us all. As Attorney General, we call on you to ensure that the BOP is operated in a humane, safe, efficient, and effective manner. Expanding the use of solitary and other forms of isolation in federal prisons accomplishes none of these goals.

Representatives of this Coalition would like to meet with you and your staff to discuss this matter at your earliest convenience. Please feel free to contact Jesselyn McCurdy, Senior Legislative Counsel, ACLU Washington Legislative Office at phone: (202)675-2307 or email: jmccurdy@aclu.org to schedule a meeting with our coalition.

cc: Charles E. Samuels Jr., Director, Federal Bureau of Prisons

Sincerely,

American Civil Liberties Union
African American Minister in Action
Alliance of Baptists
American Baptist Home Mission Societies
American Friends Service Committee
Amnesty International
Campaign for Youth Justice
Center for Constitutional Rights
Church of Scientology National Affairs Office
Crossroads Bible Institute
Disciples Justice Action Network
FedCURE
Florida Institutional Legal Services Project
Friends Committee on National Legislation
Human Rights Watch
Interfaith Action for Human Rights
Lutheran Social Services of Illinois
Maine Council of Churches
Massachusetts Prisoners' Legal Services
National Advocacy Center of the Sisters of the Good Shepherd
National Association of Social Workers
National Center for Lesbian Rights
National Council of Churches, USA
National Religious Campaign Against Torture
Rhode Island State Council of Churches
Samuel Dewitt Proctor Conference
Students for Prison Education and Reform
Tamms Year Ten
T'ruah: The Rabbinic Call for Human Rights
United Church of Christ, Justice and Witness Ministries
United Methodist Church, General Board of Church and Society
Uptown People's Law Center
Washington Lawyers' Committee For Civil Rights and Urban Affairs

ⁱ Press Release, Sen. Dick Durbin (D-IL), Durbin statement on Federal Bureau of Prisons Assessment of its Solitary Confinement Practices (Feb. 4, 2013), <http://www.durbin.senate.gov/public/index.cfm/pressreleases?ID=07260483-4972-4720-8d43-8fc82a9909ac>.

ⁱⁱ See Capital Asset Plan and Business Case Summary, Exhibit 300, Part I: Summary Information And Justification (All Capital Assets), Administrative USP Thomson, IL, Mar. 29, 2013, <http://www.justice.gov/jmd/2014justification/exhibit300/usp-thomson.pdf> (requesting funding for USP Thomson);

Reuters, Update 1-Illinois Prison Eyed To House Guantanamo Detainees, Nov. 15, 2009, <http://www.reuters.com/article/2009/11/15/guantanamo-idUSN1546843320091115> (reporting that Thomson, as constructed, has 1,600 cells)

ⁱⁱⁱ See Statement of Charles E. Samuels, Jr., Director, Federal Bureau of Prisons Before the Subcommittee on the Constitutions, Civil Rights, and Human Rights, Committee on the Judiciary, U.S. Senate, *Reassessing Solitary Confinement II: The Human Rights, Fiscal, and Public Safety Consequences*, Feb. 25, 2014, available at <http://www.judiciary.senate.gov/meetings/reassessing-solitary-confinement-ii-the-human-rights-fiscal-and-public-safety-consequences>

^{iv} See U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-13-429, IMPROVEMENTS NEEDED IN BUREAU OF PRISONS' MONITORING AND EVALUATION OF IMPACT OF SEGREGATED HOUSING 2 (2013) [hereinafter GAO REPORT ON SEGREGATED HOUSING]. "Segregated housing" refers to housing units in which prisoners are locked in their cells for approximately 23 hours a day, either alone or with a cellmate. GAO REPORT ON SEGREGATED HOUSING, at 6.

^v *Id.* at 33.

^{vi} *Id.* at 40.

^{vii} *Id.* at 41.

^{viii} See *Mentally Ill Prisoners at Federal Supermax File Class Action Suit Alleging Deliberate Mistreatment*, Washington Lawyers' Committee for Civil Rights and Urban Affairs (June 18, 2012), available at <http://www.supermaxlawsuit.com/2012-06-18-Supermax-Press-Release.PDF>.

^{ix} *Id.*

^x See *Top Management and Performance Challenges Facing the Department of Justice – 2014*, Office of the Inspector General, U.S. Department of Justice, available at <http://www.justice.gov/oig/challenges/2014.htm>.

^{xi} See *Capital Asset Plan and Business Case Summary, Exhibit 300, Part I: Summary Information And Justification (All Capital Assets)*, Administrative USP Thomson, IL, Mar. 29, 2013,

<http://www.justice.gov/jmd/2014justification/exhibit300/usp-thomson.pdf> (requesting funding for USP Thomson);

Reuters, Update 1-Illinois Prison Eyed To House Guantanamo Detainees, Nov. 15, 2009,

<http://www.reuters.com/article/2009/11/15/guantanamo-idUSN1546843320091115> (reporting that Thomson, as constructed, has 1,600 cells)

^{xii} See Video recording of Charles Samuels, Jr., testifying at Senate Judiciary Committee Hearing SD-226, Nov. 11, 2013, at 52:00-54:00, available at

<http://www.senate.gov/isvp/?comm=judiciary&type=live&filename=judiciary110613> (discussing BOP's need for more ADX beds in the context of Thomson). See also Press Release, Durbin, Bustos: Robust Funding for Prison Activation in Omnibus Appropriations Bill is Good News for Thomson, Jan. 13, 2014,

<http://www.durbin.senate.gov/public/index.cfm/pressreleases?ID=e0120b76-bfc9-4f5c-9655-1d76fe3202ee> ("In July 2013, the Senate Appropriations Committee, of which Durbin is a member, approved funding for the activation of the Thomson correctional facility at the level that was requested by President Obama in his Fiscal Year 2014 budget proposal which was delivered to Congress last April."); Budget for Fiscal Year 2014 at 730, Department of Justice, available at <http://www.whitehouse.gov/sites/default/files/omb/budget/fy2014/assets/jus.pdf> (requesting "\$166.3 million in program enhancements to begin the activation process for three institutions (Federal Correctional Institution at Hazelton, West Virginia, United States Penitentiary at Yazoo City, Mississippi, and ADX United States Penitentiary at Thomson, Illinois)").

^{xiii} See Letter from John Boehner et al. to President Barack Obama, Feb. 12, 2009, at 1,

http://royce.house.gov/uploadedfiles/final_signed_gtmo_letter_12_feb_09.pdf (stating that ADX Florence has a capacity of 490 supermax beds); Federal Bureau of Prisons, USP Florence Admax,

<http://www.bop.gov/locations/institutions/flm/> (last visited Feb. 4, 2014, 11:45 a.m.) (stating that USP Florence currently has a population of 404 supermax prisoners).