June 12, 2012

Re: **Congressional Hearing on Solitary Confinement June 19, 2012**

Dear Chairman Durbin and Ranking Member Graham:

My name is Beth Witrogen; I am a member of California Families to Abolish Solitary Confinement, and my life partner has been incarcerated for 17 years in the Security Housing Unit (SHU/solitary) at Pelican Bay State Prison in California.

This is what it feels like to be incarcerated indefinitely in PBSP SHU, day after day, year after year: The panic attacks come in waves as you realize you are trapped, unable to breathe or think clearly, no hope of escape because you have no legal or human rights due to the arbitrary policies of the California Department of Corrections. Your heart beats so fast you always worry you are having a heart attack. Your limbs are weak, your mind cannot think. You are powerless. You don’t know what will happen today—will a guard spit in your face, trash your cell and destroy your files, rip up the frames you carefully made to hold the pictures of your loved ones? The energy in your body is so wild and intense you want to run but can’t. There is no fight or flight; there is only freezing in place. You go numb to protect what little life you have; even that is precious to you. PTSD, paranoia, anxiety, hopelessness prevail.

You forget everything positive in your life, you know you are caged prey. Predators hunt you daily, whether in the form of correctional officers who humiliate and degrade and deny you, or the inability to have your voice heard legally through the CDCR system for filing complaints, complaints that go nowhere. No one polices the internal gang investigative unit or their decisions, so even though you have no gang affiliation and have not had behavior issues, you have been thrown into solitary indefinitely on hearsay. You know that you are going to stay there because it means more dollars for the guards; you know that legislators and judges are not on your side because you are viewed as “the worst of the worst,” a criminal who deserves what he gets. You know that every six years when your cased comes up for review, you will be denied release to the general prison population because the gang unit always “finds” something on you, and no one challenges them. The fox is guarding the henhouse, and you are powerless to change it.

You know however that you are a human being first of all; yes, you made poor decisions and broke the law in your youth 20 years ago and are being punished, but you also know that a life restricted indefinitely to an 8x10-foot windowless concrete cell is beyond cruel and unusual. You haven’t felt the sun or seen stars or a tree or heard a bird or cricket or ocean waves for 15 years, but the public is convinced you are an animal because this is what CDCR told them in order to keep the prisons, and coffers, full. You love your family and regret causing them pain, but they don’t come to see you because it’s too far and too expensive. You wish you could hug your mother and kiss your wife, but these privileges, along with phone calls, adequate nutrition and medical care, are denied you. The pain you feel is so intense that in order to survive, you have to shut down to what little sensory input there is in solitary confinement. You learn to do without; you learn to be as small as possible so as to not draw attention and brutality from guards who have no training in compassion, communication, or community.

Day after day, year after year, you know that even chickens and cattle are treated with greater kindness and respect in the good state of California than you are. You know that taxpayer dollars are being spent on guard salaries and overtime—on your torture—and that citizens have no idea what is going on inside the SHU or how some budget issues could be resolved by eliminating the SHU. You know that people think you get a nice bed and three square meals a day, television, workouts, but you don’t get these, and you know they have no idea the real conditions of depravity and degradation. They don’t know that you don’t even get a real pen, only a pen filler. They don’t know that your mattress is lumpy, short, inadequate, that you freeze in the winter and bake in the summer. They don’t know that you can’t talk to others except through vents and drains, that you dare not wave hi, shake hands, collect Aztec art, have an address or name of another prisoner in your cell, or you will be “validated” as a gang member or associate and kept even longer in the SHU, without any rights to confront your accuser (the gang investigator), defend yourself, or see the paperwork that keeps you for decades in a room the size of a small bathroom. You know that the public has no idea that there is no oversight of Corrections—not their Operations Manual, not their lack of adherence to the rule of law, not their lack of transparency and accountability, and not their money and paper trails.

The suffocating feeling you experience every morning on awakening never abates; the hopelessness and despair can overcome you if you don’t remain vigilant. The energy and courage it takes just to be productive, to rehabilitate yourself through studies and self-improvement, is beyond anyone’s imagination. But you press on, you won’t abdicate to CDCR’s rogue brutalities. You know that you have good inside, you know that circumstances led you here, but never did you realize that once in, there is no way out but to self-incriminate, snitch on others, or die. Too many of your friends inside have committed suicide. Sometimes you envy them, but something inside you will not give up. You still have a spark of faith and hope that somehow, some day, people outside will wake up to the torture that goes on inside Pelican Bay State Prison SHU and Administrative Segregation units. That some day people with power and voice will hold CDCR accountable for its corrupt, illegal, inhumane, brutal actions that serve absolutely no penological purpose, only vengeance, power, and greed. You hold out hope, you joined the two nonviolent hunger strikes in 2011, you have faith that prison reform is possible, and that you will get out of solitary. You cannot understand why it has gone on for decades, this torture, this mental anguish, how there could be no oversight in a public, taxpayer-supported institution. You understand the fear however, because the intimidation is severe, and continual. If you say the wrong word during visiting, if you write something innocuous in a letter, if a loved one sends you mail they don’t know is considered contraband, your visiting and mail privileges can be suspended. Because mail is the only contact you have with the outside, you are careful to not speak the truth about what goes on inside, because your family can also be intimidated.

Despite your life situation, you are protective of all whom you love, and you have compassion for the other prisoners as well. People don’t understand that prisoners have a code of honor based on compassion and taking care of each other. That they have to develop their own kind of community where food is shared so that no one goes too long without. Where information about outside activism is shared, so that hope is kept alive despite your extreme isolation at the far end of Northern California near Oregon.

You know that you have developed compassion and forgiveness, that if only you were allowed to take correspondence courses and improve your mind, get an education, develop anger management and communication skills, have proper medical care, be served adequate, nutritious well-prepared and warm food, phone calls, contact visits, warm clothing for winter, that you would not be a threat to the safety and security of the prison or community. In fact, you do not consider even now that you are a threat; but you are told that you are, and the public is told that you are, and that is behind every decision the public hears about, why you and 1000 others are in the SHU indefinitely. You know it isn’t true, but who would listen to a prisoner? Why should anyone care? You are “the worst of the worst,” even though you know you are not.

You spend your days in thought, asking unanswerable questions: You’ve just had your first spicy pickle in 17 years; how could this food item be considered a security threat? Why do the floor officers not give you all of your food? Why are prisoners who went hunger strike retaliated against through denial of visits and mail, allowed few books, denied dignity? Why are so many guards relentlessly lazy, inside a culture where to be kind and professional to a prisoner is to invite ostracizing, so instead they go along in order to fit in? Why are citizens in this democratic nation, where each individual is supposed to matter, not morally outraged that here in the U.S.A. we torture and warehouse entire races, then throw away the key just because we are told this is for our safety? We are not safer, and we certainly are not better, as a nation and as communities, when we allow prisoners—no matter what their crime—to be neglected, disregarded, mistreated, dehumanized, and tortured.

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By definition “torture” is the intentional infliction of severe mental or physical pain or suffering by or with the consent of state authorities for a specific purpose. All international human rights covenants agree on this.

My loved one is 45 years old; he has been incarcerated in solitary confinement—the “hellhole,” or prison within a prison—for nearly 18 years at PBSP. When the facility was built in 1989, no one imagined that prisoners would be held in these bathroom-size boxes for more than 18 months, let alone for decades in violation of the 8th and 14th amendment rights of cruel and unusual punishment and denial of due process.

According to a federal lawsuit filed against CDCR and Gov. Jerry Brown on May 31 by the Center for Constitutional Rights, California has subjected an extraordinary number of prisoners to more than a decade of solitary confinement at the Pelican Bay SHU. According to 2011 CDCR statistics, more than 500 prisoners (about half the population at the Pelican Bay SHU) have been there for more than 10 years. Of those, 78 have been there for more than 20 years. As one federal judge in the Northern District of California noted, retention of prisoners in the Pelican Bay SHU for 20 years “is a shockingly long period of time.” *See Griffin v. Gomez*, No. C-98-21038, slip op. at 10 (N.D. Cal. June 28, 2006).

The lawsuit also states that “California’s uniquely harsh regime of prolonged solitary confinement at Pelican Bay is inhumane and debilitating. … Defendants persistently deny these men the normal human contact necessary for a person’s mental and physical well-being. These tormenting and prolonged conditions of confinement have produced harmful and predictable psychological deterioration. It’s called the “SHU” syndrome, and is well documented by mental health experts as being psychologically ruinous.”

Further: “California, alone among all 50 states and most other jurisdictions in the world, imposes this type of extremely prolonged solitary confinement based merely on a prisoner’s alleged association with a prison gang. While defendants purport to release “inactive” gang members after six years in the SHU, in reality their so-called gang validation and retention decisions (and resulting indefinite SHU placement) are made without considering whether plaintiffs and class members have ever undertaken an illegal act on behalf of a gang, or whether they are – or ever were – actually involved in gang activity. These men are incarcerated for

years without any meaningful review of their SHU confinement or any notice of how they can earn their way back to the general population without becoming informants.”

In March 2012 the California Department of Corrections and Rehabilitation (CDCR) came out with its long-awaited proposal to overhaul its use of prolonged solitary confinement to manage gangs and violent prisoners. Families, lawyers, prisoners and activists had hoped that after two peaceful hunger strikes in 2011 engaging 12,000 prisoners protesting CDCR’s illegal practices, the Department would follow several other states that have successfully and significantly reduced their use of solitary confinement and instituted effective rehabilitation and re-entry programs—and at great savings to overstressed state budgets. But the CDCR has ignored the best practices of other states, like Ohio, that have significantly reduced this heinous practice; CDCR has ignored the proposals of the hunger strike prisoner representatives and mediation team of lawyers and activists that would allow for a workable, humane and sane compromise between safety and rehabilitation; CDCR has ignored family members who have worried themselves—sometimes to death—over the difficulty and expense of visiting such long distances and for such short periods (less than two hours per visit each, Saturdays and Sundays); CDCR has ignored pleas for rehabilitative programming, Thus the CDCR has further isolated those housed in solitary confinement, adding to the torture of both prisoners and family members. And when these men are released back into society, often directly from their cell in solitary, they have no clue how to handle life on the outside because they haven’t even seen a tree for decades, let alone been given communication and social skills. Certainly they have not given these men any reason to think they are worthy of a new life, nor skills with which to make changes that would benefit themselves, their families, and society.

No human being ought to be treated this way, and no common good could possibly be served by an institution that promotes violations of basic human dignity. I understand that in other states that have reduced the use of solitary confinement, violence and threats to safety and prison order have not resulted—rather, the opposite. It just seems to make sense that if people are treated more humanely, they will behave accordingly. I also believe my loved one deserves that chance.

For family, prisoners are worthy of our love and compassion despite their past actions. They are capable of reform and rehabilitation and their efforts ought to be thoughtfully and compassionately recognized and supported. I am proud of my partner for the personal changes he has made in behavior and attitude and for his courage in facing cruelties and fundamentally inhumane conditions that no one ought to endure. Still, he treats everyone with respect and compassion no matter what the situation that arises. He has emotional maturity and good sense, and deserves to be released to the general population without going through four more years of a step-down program.

Thank you for this opportunity to offer my statement and that of my partner Maligi Tuitasi, and for holding this momentous hearing on the overuse of solitary confinement as a tool of penology. With respect and gratefulness for your time and consideration,

Beth Witrogen

150 Thistle Way

Martinez, CA 94553