

USA

**SUBMISSION ON 'REASSESSING
SOLITARY CONFINEMENT - THE
HUMAN RIGHTS, FISCAL, AND
PUBLIC SAFETY CONSEQUENCES'**

HEARING BEFORE THE SENATE JUDICIARY
SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS
AND HUMAN RIGHTS: 25 FEBRUARY 2014

**AMNESTY
INTERNATIONAL**



Amnesty International Publications

First published in February 2014 by
Amnesty International Publications
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom
www.amnesty.org

© Copyright Amnesty International Publications 2014

Index: AMR 51/013/2014
Original Language: English
Printed by Amnesty International, International Secretariat, United Kingdom

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior permission of the publishers.

Amnesty International is a global movement of 3 million people in more than 150 countries and territories, who campaign on human rights. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights instruments. We research, campaign, advocate and mobilize to end abuses of human rights. Amnesty International is independent of any government, political ideology, economic interest or religion. Our work is largely financed by contributions from our membership and donations

**AMNESTY
INTERNATIONAL**



Contents

1

INTRODUCTION	1
GENERAL CONCERNS AND OBSERVATIONS	1
CALIFORNIA: REFORMS TO ITS SECURITY HOUSING UNIT (SHU) POLICIES DO NOT GO FAR ENOUGH.....	3
ISOLATION IN THE FEDERAL SYSTEM.....	4
RESTRICTIONS ON ACCESS TO ADX: LACK OF TRANSPARENCY REGARDING BOP USE OF ISOLATION	5
ISOLATION/SOLITARY CONFINEMENT IN OTHER PARTS OF THE FEDERAL SYSTEM....	5
AMNESTY INTERNATIONAL’S RECOMMENDATIONS.....	6
ENDNOTES	8

INTRODUCTION

Amnesty International welcomes this opportunity to submit further testimony to the Senate Judiciary Subcommittee on the Constitution, Civil Rights and Human Rights on "Reassessing Solitary Confinement: the Human Rights, Fiscal, and Public Safety Consequences," following its first hearing in June 2012. The practice of solitary confinement in US prisons and conditions in isolation units remains a major human rights concern. We urge the Committee to take concrete steps to ensure that US practice is consistent with the USA's obligations under international human rights law and standards.

GENERAL CONCERNS AND OBSERVATIONS

The use of long-term segregation as a management tool to control prisoners for security or behavioural reasons is being increasingly challenged by US penal experts and others as costly, ineffective, and inhumane. However, thousands of prisoners across the USA remain in prolonged or indefinite isolation, confined to small cells for 22-24 hours a day, often in units designed to reduce sensory and environmental stimulation. In some states, including Arizona, California, Oklahoma and Texas, the cells in some isolation units have no windows to the outside and there is little access to natural light. Exercise is typically limited to no more than five to ten hours a week and is often taken in bare yards with no equipment or view of the outside world. Prisoners in administrative or punitive segregation usually have no access to work or meaningful rehabilitation or recreational programs and may spend years with minimal human contact. Some are released directly from isolation units to the streets, despite evidence suggesting that prisoners held in such restrictive conditions find it more difficult than others to adjust on their release, and thus have higher rates of recidivism.

Conditions such as those described above are in clear breach of international standards for humane treatment, including those set out under the United Nations (UN) Standard Minimum Rules for the Treatment of Prisoners (SMR), the UN Basic Principles for the Treatment of Prisoners, and the International Covenant on Civil and Political Rights to which the US is a State Party.¹ The combined effects of the social and environmental deprivations imposed, particularly over a prolonged or indefinite period, can amount to torture or other cruel, inhuman or degrading treatment or punishment in violation of the USA's obligations under international law.²

International and regional human rights treaty bodies and experts have consistently called on states to restrict their use of solitary confinement, in recognition of the physical and mental harm and suffering this can cause even when imposed for limited periods. This was reiterated by the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in a detailed report issued in August 2011 in which he called on states to apply solitary confinement "only in exceptional circumstances and for the shortest possible period of time".³ He defined solitary confinement as "the physical and social isolation of individuals who are confined to cells for 22-24 hours a day." He called for the abolition of solitary confinement in the case of children under 18 and people with mental disabilities on the ground that its imposition in such cases, for any duration, constitutes cruel, inhuman or degrading treatment. He stressed the importance of safeguards for prisoners placed in segregation, including regular monitoring and review of prisoners' mental and physical condition by qualified, independent medical personnel, and a meaningful opportunity for prisoners to challenge their confinement through a process of administrative review and through the courts. In a statement issued on 7 October 2013, the Special Rapporteur urged the US Government to take "concrete steps to eliminate the use of prolonged and indefinite solitary confinement in US prisons and detention facilities".⁴

While some states have taken steps to limit their use of solitary confinement, many jurisdictions have failed to put in place the safeguards called for above. Although US courts have found that isolating people who are seriously mentally ill in "super-maximum security"

facilities is incompatible with the constitutional prohibition of “cruel and unusual punishment”, prisoners with mental health problems continue to be over-represented in isolation units. For example, Amnesty International was informed that, as of July 2012, more than 50% of women prisoners in the SHU and the Administrative Segregation Unit at the California Institution for Women were in the Correctional Clinical Case Management System (CCCMS), meaning they were diagnosed as suffering from some form of mental illness.⁵ Even where policies prohibit confining mentally ill prisoners in isolation, mental health monitoring is often inadequate. According to an ongoing lawsuit, prisoners with serious mental illness have been confined to the federal super-max prison at ADX, in some cases for many years, without adequate monitoring or treatment, and despite policies barring people who are seriously mentally ill from being held at the facility.⁶ Children under 18 continue to be held in solitary confinement in many jurisdictions, including in juvenile facilities, adult jails and in the adult prison system, despite this being in clear breach of international standards.⁷

The evidence suggests that many individuals who are segregated are not a serious threat or danger to others. Some are isolated because of disturbed or disruptive behaviour indicative of mental health or behavioural disorders; prisoners in such cases may be effectively punished for behaviour they are unable to control, in conditions that could have a further negative impact on their health. In some states, such as California, prisoners have been placed in indefinite isolation because of their alleged links to prison gangs even though they may not be involved in serious criminal or threatening behaviour. In many states prisoners under sentence of death are automatically placed in isolation and have no way of alleviating their harsh conditions through their behaviour. All too often procedural safeguards are minimal and assignments to SHU housing are difficult to challenge, both internally through administrative review and through the courts.

Despite the severe impact of segregated confinement, prisoners may be afforded few safeguards to ensure a fair hearing or establish why such restrictions are necessary. Albert Woodfox, for example, has spent more than 40 years in solitary confinement in prisons in Louisiana; although he has had no serious disciplinary citations for many years, successive internal review boards since 1972 have reauthorized his continued isolation on grounds of “Reason for Original Lockdown”.⁸ Prisoners in other jurisdictions, including the federal system, have been held in isolation based on their committal offence rather than their institutional behaviour.⁹

As has been amply documented, US courts provide only a limited remedy for prisoners held in isolation, generally deferring to prison administrators in deciding what restrictions are necessary on security grounds. The US Supreme Court has not ruled that solitary confinement, even when imposed indefinitely, is per se a violation of the Constitution.¹⁰ It has set a high threshold for judging when prison conditions violate the Eighth Amendment prohibition of “cruel and unusual punishment”, holding that they must be so severe as to deprive inmates of a “basic necessity of life” – interpreted to mean the physical requirements of food, clothing, shelter, medical care and personal safety – and that the authorities must have shown “deliberate indifference” to a risk of harm.¹¹ The courts have been less willing to consider mental and psychological pain or suffering as sufficient to render conditions unconstitutional, a situation where US jurisprudence falls short of international human rights law. The UN Human Rights Committee has emphasized that the prohibition of torture and other cruel, inhuman or degrading treatment under international law “relates not only to acts that cause physical pain but also to acts that cause mental suffering” and has stated, specifically, that prolonged solitary confinement may breach this prohibition.¹²

In light of the lack of effective remedies under existing US law, we believe that the Sub-Committee, the US Congress and the US Department of Justice have a vital role in encouraging the promulgation of national standards to regulate and limit the use of solitary or isolated confinement. In addition to the general concerns outlined above, Amnesty

International submits its concerns regarding the following issues, which we believe are relevant to the Sub-Committee's review.

CALIFORNIA: REFORMS TO ITS SECURITY HOUSING UNIT (SHU) POLICIES DO NOT GO FAR ENOUGH

In September 2012, Amnesty International published a report expressing concern about conditions in California's SHU units, following a visit to three state prisons in late 2011.¹³ At the time of its report, nearly 4,000 prisoners were held in the SHUs, two-thirds of whom were serving indeterminate (indefinite) SHU terms based on alleged gang membership or association. They include hundreds of prisoners who had spent more than a decade – many longer than 20 years – in conditions of severe isolation and environmental deprivation at Pelican Bay SHU. Many of the same prisoners remain in isolation today.

The California authorities have recently introduced reforms which include a Step Down Program (SDP) for prisoners serving indeterminate SHU terms, using what the department has called a "behaviour-based model" to enable them to earn their way back to the general prison population. Amnesty International welcomes in principle measures to provide a route out of isolation through prisoners' own behaviour. However, the reforms have serious shortcomings, in particular by continuing to house prisoners for long periods in unacceptably harsh conditions of isolation. It will normally take at least four years for prisoners to work their way out of the SHU through the SDP. For the first two years, most prisoners will remain confined for 22-24 hours a day to their cells, with no group association at any time. No change to the harsh physical conditions in Pelican Bay SHU are proposed, despite these being in breach of minimum internationally recognized standards. Only limited association is proposed for the third year of the SDP and for the first six months of year four. All visits remain non-contact and there are severe restrictions on phone calls with families.

While prisoners in the SDP are required to engage in some programming, such as anger management skills and other cognitive behavioural studies, these are remotely delivered and taken in-cell for the first two years. Given the negative effects that prolonged isolation can have on physical and psychological health, it is hard to see how such programs can have a positive impact when conducted in such a restrictive setting, or how a prisoner's progress can be properly measured in the absence of any social interaction.

Prisoner advocates have expressed concern that a lack of clear criteria for progressing through the SDP means that the process remains discretionary, with much depending on assessments by correctional staff on the ground, and few positive opportunities for prisoners to demonstrate good behaviour. While cases are reviewed by a classification committee every six months, prisoners can be moved back a level at any time, and there is concern that those who fail to progress through the system for whatever reason can still be held in isolation indefinitely.

The reforms also include changes to the gang validation process, with prisoners who are "associates" rather than actual gang members no longer automatically assigned to the SHU. However, advocates have reported that the distinction between "active" gang members and associates can remain blurred in practice, and that prisoners may still be assigned to the SHU without clear evidence of dangerous or disruptive behaviour.

The limited nature of the California reforms demonstrates the importance of having clear national guidelines for reform. These should include strict criteria to measure how prisoners can progress through any phased system of segregation, with prisoners being able to work their way out of isolation in a far shorter time-frame than described above. Prisoners should only be segregated if they pose a continuing serious threat that cannot be safely controlled in a less restrictive environment, and for the shortest possible time. Even at the most restrictive custody levels, prisoners should be held in conditions that fully conform to international standards for humane treatment, including adequate access to natural light, fresh air,

exercise and rehabilitation programs. There should be opportunities for some group interaction at every stage of segregated confinement, as has proved effective in some other states.

These measures would also be in keeping with standards promulgated by the American Bar Association (ABA) which state, *inter alia*, that segregated housing "should be for the briefest possible term and under the least restrictive conditions practicable consistent with the rationale for placement and with the progress achieved by the prisoner" (Standard 23-2.6); that "Conditions of extreme isolation should not be allowed regardless of the reasons for a prisoner's separation from the general population" (23-3.8 (b)); and that all prisoners in segregated housing should be provided with "meaningful forms of mental, physical and social stimulation", including, where possible, more out-of-cell time and opportunities to exercise in the presence of other prisoners (23-3.8 (c)).

ISOLATION IN THE FEDERAL SYSTEM

Amnesty International has raised concern about conditions under which prisoners are held in long-term isolation in the federal system. These include conditions in the US Penitentiary, Administrative Maximum (ADX), Florence, Colorado.

The vast majority of ADX prisoners are confined to solitary cells for 22-24 hours a day in conditions of severe physical and social isolation. While the cells have a narrow window to the outside, and thus access to natural light, the structure is designed to minimise human contact. The cells in the General Population units (where most prisoners are housed) are positioned so that they prevent prisoners from seeing or having direct communication with inmates in adjacent cells; each cell also has an interior barred door separated by several feet from a solid outer door, compounding the sense of isolation. Exercise is limited to up to ten hours a week, in a bare interior room or in small individual yards or cages, with no view of the natural world. The only time a General Population prisoner may have any direct contact with another inmate is when speaking to a prisoner in an adjacent cage during very limited outdoor exercise. Prisoners in the Control Unit, or who are under disciplinary measures, exercise in solitary yards and thus have no contact with other prisoners. Outside exercise is limited to two or three days a week only and falls below the minimum daily outdoor exercise recommended under the UNSMR. Visits are non-contact and most contact with staff, including medical and mental health staff, takes place behind barriers.

While most prisoners at ADX have black and white TVs with multiple channels, and access to in-cell educational and other programs, Amnesty international believes that the conditions of isolation are unacceptably harsh and that in-cell programs cannot compensate for the lack of meaningful social interaction many prisoners endure for years on end. Prisoners in the General Population must spend at least 12 months, and often far longer, before becoming eligible for a Step Down Program where they can participate in some group association and earn their way to a less restrictive facility. Although there is no detailed public information on the time prisoners spend in each unit at ADX, a BOP analysis based on a limited survey of 30 inmates in 2011 showed prisoners were likely to spend at least three years in the General Population (confined to solitary cells for 22-24 hours a day) before being admitted to the SDP.¹⁴ Other sources based on a wider sample of prisoners have found that scores of prisoners have spent more than twice as long in solitary confinement.¹⁵ Prisoners in the Control Unit, the most isolated section of the facility, are ineligible for the SDP as they are serving fixed terms for specific offences, terms which can extend to six or more years.

Although all prisoners now receive a hearing prior to placement at ADX, advocates have criticized the internal review procedures – including those for deciding when a prisoner can access and progress through the SDP – as over-discretionary and lacking clear criteria. According to lawsuits and other sources, this means some prisoners effectively remain in the facility indefinitely, without being able to change their circumstances. Amnesty International

believes that the conditions of isolation in the most restrictive custody levels at ADX breach international standards for humane treatment and, when applied long-term or indefinitely, can amount to cruel, inhuman or degrading treatment or punishment in violation of international law.

RESTRICTIONS ON ACCESS TO ADX: LACK OF TRANSPARENCY REGARDING BOP USE OF ISOLATION

In June 2001, an Amnesty International representative was given a tour of ADX and was provided with access to most parts of the facility and an opportunity to speak with the Warden, senior staff and some prisoners. However, the organization's further requests to visit the prison in 2011 and 2012 were turned down by the BOP. This appears to reflect a more general tightening of access to the facility in recent years, including by members of the media. Amnesty International notes that a review of federal segregation policies is currently being conducted by outside contractors. However, it believes that prisons should not be insulated from outside scrutiny by human rights groups and experts. In this regard, the organization has joined with other NGOs in calling on the US Department of State to extend an invitation repeatedly requested by the UN Special Rapporteur on Torture to visit the USA to examine, among other things, the use of solitary confinement in federal and state facilities. Such an invitation would be consistent with the commitment made by the US government to support the work of the Special Rapporteurs and UN human rights mechanisms, and to encourage the full enjoyment of the human rights of persons deprived of their liberty.¹⁶

External scrutiny is of particular importance in the case of all facilities where prisoners are further isolated within an already enclosed environment. In ADX there is little publicly available information about the current operation of the facility beyond a few institutional supplements giving a bare outline of the various units and programs; lack of information on conditions and their impact on individual cases can be compounded by the fact that prisoners under Special Administrative Measures (SAMs) may have severe restrictions placed on their communication with the outside world, including through visits and correspondence. A report by the General Accounting Office (GAO) in May 2013 noted more generally that "there is little publicly available information on BOP's use of segregated housing".¹⁷

The study also noted that, while the BOP had an Internal Review Division which periodically inspected compliance with policies in other federal segregation units (including Security Housing cells and Special Management Units in other prisons), "BOP does not have requirements in place to monitor similar compliance for ADX-specific policies". Overall, the GAO study found that BOP had not assessed the impact of segregated housing on institutional safety or the impact of long-term segregation on inmates. While the BOP has agreed to develop specific ADX internal monitoring procedures in line with the GAO recommendations, Amnesty International believes there should be regular, external reporting and review of conditions at ADX and other isolation facilities.

The need for external scrutiny is heightened by information suggesting that ADX prisoners are held under more isolated conditions than before, including than at the time of Amnesty International's 2001 visit, and that the original purpose of the prison – to allow a clear route out of isolation within a defined period – has been eroded over the years. As revealed in litigation documents, there are also conflicting accounts given by prisoners and their attorneys and ADX administrators about aspects of the regime, such as the amount of contact prisoners have with staff and the value of programs provided.

ISOLATION/SOLITARY CONFINEMENT IN OTHER PARTS OF THE FEDERAL SYSTEM

The US government has stated that only 0.25% of the federal prison population is held at ADX. However, other federal facilities also confine prisoners in prolonged isolation. They include more than 1,000 prisoners held in Special Management Units (SMUs), where two

prisoners are usually confined to small cells for at least 23 hours a day for periods of 18-24 months, terms which can be extended. Conditions in the units are harsh, with inmates allowed only five hours exercise a week, falling below the SMR. Although having a cell-mate may relieve some of the effects of isolation, confining two people in a small, enclosed space for 23-24 hours a day can lead to severe additional stresses. A lawsuit filed in July 2011 has challenged conditions in the SMU at Lewisburg Penitentiary as amounting to "cruel and unusual punishment", citing among other things, a series of assaults by prisoners on their cell-mates, including two murders.¹⁸ Standards limiting the use of isolation and improving conditions in segregation facilities should include units where prisoners are double-celled in an otherwise isolated environment.

Amnesty International remains concerned by the solitary confinement of prisoners held in pre-trial federal detention. This includes concerns about conditions in the SHU, 10th Floor South, at the federal Metropolitan Correctional Centre (MCC) in New York, where detainees are confined alone for 23-24 hours a day to cells which have no view to the outside and little natural light, with no outdoor exercise. Detainees in MCC have included foreign nationals charged with supporting terrorism who have been extradited or subjected to an "extraordinary rendition" to the USA; in addition to their harsh physical conditions of confinement, some have had only limited contact with their families and no social visits. Several prisoners have spent years in the unit before being brought to trial. Amnesty International has expressed concern to the US government that conditions in the MCC 10th Floor SHU constitute cruel, inhuman or degrading treatment and are incompatible with the presumption of innocence in the case of untried prisoners whose detention should not be a form of punishment. Lawyers who have represented prisoners in the MCC SHU have describe the negative impact of the conditions on their clients' state of mind, and the organization is concerned that such conditions may impair a defendant's ability to assist in his or her defence and thus the right to a fair trial.

The US government is reported to have reduced the overall numbers of prisoners in segregated confinement (including SHU cells situated in most prisons) in the past year. However, its budget proposals for 2014 include plans to open a second "supermax" prison, following its purchase of Thomson Correctional Center, a former state facility in Illinois. The government's 2014 budget request to Congress includes a funding proposal to "begin activating the facility as an Administrative-Maximum U.S. Penitentiary in Fiscal Year 2014".¹⁹ While the exact conditions under which prisoners will be held in Thomson remain unclear, Amnesty International is concerned that the facility will replicate the regime at ADX, Florence. Any expansion of the use of long-term solitary confinement and the isolated conditions as they exist at ADX, Florence, would be a retrograde move, contrary to international human rights standards.

AMNESTY INTERNATIONAL'S RECOMMENDATIONS

General recommendations for all jurisdictions on the use of isolated confinement

- In line with international human rights law and standards, all jurisdictions should ensure that solitary or isolated confinement, whether imposed for disciplinary or administrative purposes, is imposed only as a last resort and for the minimum period possible.
- Strict criteria should be established to ensure that only prisoners who are a severe, continuing threat to the safety of others or the security of the institution are placed in high security segregation units or facilities.
- No prisoner should be held in prolonged or indefinite isolation.
- All prisoners in segregated confinement should have access to meaningful therapeutic, educational and rehabilitation programs.
- Conditions in all segregation facilities should provide minimum standards for a humane

living environment so that prisoners even in the most restrictive settings have adequate facilities for outdoor exercise, access to natural light, and meaningful human contact both within the facility and with the outside world.

- There should be opportunities for some group interaction and association for prisoners at all stages of segregated confinement, both to benefit their mental and physical health and to allow their behaviour to be measured and to encourage their progress to less restrictive custody.
- Children under 18 should never be held in solitary confinement or "close cell" confinement. All youthful offenders should receive treatment appropriate to their age and developmental needs with the primary goal of rehabilitation as required under international standards.
- No prisoner with mental illness or who is at risk of mental illness should be held in solitary or isolated cellular confinement.
- There should be adequate mental health monitoring of all prisoners in segregation, with opportunities for prisoners to consult with mental healthcare professionals in private.
- Placement in segregated confinement should be made only after an impartial hearing at which the prisoner has a fair and meaningful opportunity to contest the assignment and the right to appeal. Procedural safeguards should include those recommended under the ABA standards. Prisoners should be provided with regular, meaningful review of any continued segregation through a similar impartial proceeding, with clear criteria to enable them to move to less restrictive settings within a reasonable time frame.
- There should be regular, external review of conditions in segregation facilities and of the procedures and operation of such facilities.

Recommendations to the federal government and Congress

- Congress should require, and the federal government institute, reforms to the use of solitary and isolated confinement in all BOP facilities so that they meet with the above standards and fully conform to international law and standards for humane treatment.
- The Department of State should invite the UN Special Rapporteur on Torture to investigate the use of solitary confinement in US prisons, including through on-site visits under the terms requested by the Special Rapporteur.
- A national reporting system to the Bureau of Justice Statistics should be established under which state and local prison and detention facilities, including juvenile facilities, are required to provide data on their use of solitary confinement, including statistics on the numbers of prisoners held in segregated facilities, the length of confinement, the effectiveness of programs instituted, the costs of confinement and the impact on prisoners, on institutional safety and on recidivism.
- The above data and input from experts, including mental health experts and penal reformers, should be studied to provide guidance on best practice and effective measures to reduce the use of solitary or isolated confinement.
- National guidelines should be drawn up to limit the use of solitary and isolated confinement based on international standards, the ABA standards and best practice.

Amnesty International urges that Thomson Correctional Center not be funded or designated as a super-maximum isolation facility and that the federal government take steps to reduce and provide alternatives to its use of isolated confinement.

ENDNOTES

¹ A detailed description of the relevant international standards is given in Amnesty International's previous submission to the Sub-Committee and in its report, USA: The Edge of Endurance, Prison Conditions in California's High Security Units, published in September 2012, (hereafter referred to as The Edge of Endurance. <http://www.amnesty.org/en/library/info/AMR51/060/2012>. This includes reference to standards for the living conditions of prisoners and standards which provide that prisoners should not be subjected to hardships beyond those inherent in the deprivation of liberty as well; it also cites the findings of the UN Human Rights Committee (the monitoring body of the International Covenant on Civil and Political Rights (ICCPR) that conditions in some US super-maximum security prisons are incompatible with the requirement under Article 10(3) of the ICCPR that rehabilitation should form an essential part of the penitentiary system.

² The Human Rights Committee and the Committee against Torture (the monitoring body of the Convention against Torture, have criticised the harsh conditions of isolation in some US super-max prisons as inconsistent with the USA's obligations under the ICCPR and the Convention against torture (Concluding Observations of the Human Rights Committee on the Second and Third U.S. reports, 2006 and Conclusions and Recommendation of the Committee against Torture on the second report of the USA, May 2006).

³ Interim Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 5 August 2011, United Nations General Assembly A/66/268/, para 46.

⁴ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13832>

⁵ The Edge of Endurance, op cit at note 1 (chapter 13).

⁶ *Cunningham v Federal Bureau of Prisons*

⁷ Para. 67 of the UN Rules for the Protection of Juveniles Deprived of their Liberty, adopted by the General Assembly in resolution 45/113 of 14 December 1990, states "All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including ...solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned". In its General Comment no. 10 (2007), on the prohibition of torture or other cruel, inhuman or degrading treatment under Article 37 of the Convention on the Rights of the Child (CRC), the Committee on the Rights of the Child stated "disciplinary measures in violation of Article 37 of the CRC must be strictly forbidden, including ... closed or solitary confinement". As a signature to the CRC the USA is bound not to do anything to defeat the object and purpose of the treaty.

⁸ Information from official prison Lockdown Review summaries. Woodfox was placed in lockdown with Herman Wallace following their 1972 conviction of the murder of a prison guard, a charge they have consistently denied. Herman Wallace was released in October 2013 after his conviction was overturned but he died a few days later from terminal cancer.

⁹ This includes Arizona, where prisoners sentenced to life terms are automatically placed in isolation for at least the first two years, and in the federal system where prisoners accused or convicted of supporting terrorism have been held in solitary confinement pre-trial or at ADX after conviction, based on the offence.

¹⁰ The Court has held only that some minimal due process is required where prisoners are assigned to isolated custody under conditions which imposes "an atypical hardship".

¹¹ *Wilson v Seiter*, 501 U.S. (1991) and *Farmer v Brennan*, 511 U.S. (1994)

¹² Human Rights Committee General Comment 20 on Article 7 of the ICCPR.

¹³ USA: The Edge of Endurance, op cit at note 1.

¹⁴ Evidence presented by the USG in the case of Babar Ahmad and Others v UK, before the European Court of Human Rights (ECHR).

¹⁵ A survey for the litigants in the case of Babar Ahmad before the ECHR (supra) found 43 inmates at ADX had spent eight years in isolation; similar findings were revealed from a larger sample of 110 ADX prisoners.

¹⁶ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13832>

¹⁷ GAO report, Improvements Needed in Bureau of Prison's Monitoring and Evaluation of Impact of Segregated Housing, May 2013, p.2.

¹⁸ Richardson v Kane, filed December 2011.

¹⁹ <http://justice.gov/jmd/2014factsheets/prisons-detentions.pdf>