

Is Solitary Confinement Justified?



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Solitary confinement is a controversial method of imprisonment. It is when prisoners are placed in a cell away from other prisoners which is considered to be “solitary confinement.” This may be for internal penal discipline, to protect the inmate from other prisoners or to prevent an individual from causing harm or trouble to the general prison population. In some cases, prisoners are remanded to solitary confinement for no special reason. Solitary confinement is used at the whim of prison authorities. Tens of thousands of persons are segregated inside cramped, concrete, windowless cells in a state of near-total solitude for as much as 22 to 23 hours a day. When an inmate is in solitary confinement, there is minimum contact with other human beings. They are deprived of access to facilities and amenities that the general prison population has. Solitary confinement can cause serious mental problems to the prisoners. The public may think that solitary confinement is only for an inmate who has committed a horrible crime. However, this is not always the case. It should be used as a tool by prison authorities to control certain prisoners and maintain stability in the prison population and not be abused by authorities.

Solitary Confinement

Under some circumstances, solitary confinement is necessary if an inmate is in danger or is a danger to others. Solitary confinement can cause serious mental and health problems to subjected inmates. The consequence of solitary confinement is often a result of serious mental scars on the victims. It is used as one of the tools available to prison authorities to maintain discipline among the general prison population by holding the threat of such confinement for not following prison rules. In some cases, solitary confinement is abusive when no rational motive exists.

Solitary confinement is a tool that can be used as a two edge sword. There is the situation where it is applicable if it is used for the sole purpose of control by prison authorities. On the other hand, it can be considered cruel and inhumane. There is a conflict when there appears to be no other alternative than to apply this type of incarceration.

Is Solitary Confinement Constitutional?

This is the question and the argument for many people. In some cases we can conclude that it is the right thing to do, if it saves a life. However, it can cause serious irreversible mental damages to the inmate. Studies have been made regarding the detrimental mental consequences as a result of prolonged solitary confinement. For example in the prison system, gangs actually send orders to have certain detainees eliminated or when testimony could be incriminating to others in the criminal organization. Solitary confinement is the only solution. Another justification for solitary confinement is to use it as a form of punishment for misconduct or when the inmates' behavior is aggressive. However, there are other situations when authorities have no justifiable reason to segregate a prisoner in this manner.

Solitary confinement often results in the mistreatment of inmates by prison authorities. There are many situations when prison authorities ignore or just do not pay much attention to the abusive conditions of incarceration. In the case of *Madrid v. Gomez*, 889 F. Supp. 1146 (1995), prisoners in Crescent City, California filed a class action lawsuit under 42 U.S.C. § 1983, against the Department of Corrections in the U.S. District court of Northern District of California. "The plaintiffs allege that the conditions of their confinement were unconstitutional and they asked the court for declaratory and injunctive relief. Specifically the plaintiffs alleged that the defendants unconstitutionally condoned a pattern and practice of using excessive force against inmates, failing to provide inmates with adequate medical care, failing to provide inmates with adequate

procedural safeguards when segregating the prison gang affiliates in the Security Housing Unit, which failed to provide inmates with access to the courts.”²

On January 10, 1995, the U.S. District Court granted injunctive relief to the plaintiffs, holding that “(1) There was unnecessary and wanton infliction of pain and use of excessive force at the prison; (2) prison officials did not provide inmates with constitutionally adequate medical and mental health care; (3) conditions of confinement in the Security Housing Unit, when included extreme isolation and environmental deprivation, did not inflict cruel and unusual punishment on all inmates, but conditions in the Security Housing Unit did impose cruel and unusual punishment on mentally ill prisoners, (4) some procedures used to validate inmates as gang members and thus transfer them to the Security Housing Unit violated due process.”²

On January 13, 2006, the district court ordered that the defendants were to fund and fill the following full time positions at the prison; one additional registered nurse, one additional psychiatrist, one psychologist, one additional associate government program analyst, three additional office technicians, three additional medical records technicians, and two additional primary care providers.

The Abusive Conditions of Solitary Confinement

The article from Solitary Watch, “Case closed on Supermax abuses at Pelican Bay”, (2011), described a horrifying instance that was described about a African-American prisoner with mental illness, who had smeared himself with feces was forced into a tub of water so hot that it caused third-degree burns. “In another instance, an inmate who refused to return his food tray was shot with a gas gun, pistol whipped, beaten, twice knocked unconscious and ‘dragged out of the cell face down, his head was bleeding, and a piece of his scalp had been detached or peeled back.’”³

The case *Wright v. McMann*, 387 F. 2d. 519 (1967), is about Lawrence Wright, a plaintiff who was serving a life sentence under jury conviction of three counts charging

assault and carnal abuse of a child. The late Judge Brennan of this Court dismissed the case because there was not sufficient evidence to warrant intrusion into the internal management of state prisons. The complaint (prepared by appellant without the formal assistance of counsel) alleges that on February 18, 1965, the Deputy Warden, acting on behalf of Warden McMann, the defendant, placed Wright in the solitary confinement unit of the prison for an alleged violation of a prison regulation. “The core of Wright's charge seems to be based on the claim that upon reception in solitary confinement, he was placed first in what is known in prison jargon as a ‘strip cell,’ where all sorts of cruelties were visited upon him. The said solitary confinement cell wherein plaintiff was placed was dirty, filthy and unsanitary, without adequate heat and virtually barren; the toilet and sink were encrusted with slime, dirt and human excremental residue; the plaintiff was without clothing and was entirely nude for several days elsewhere said to be 11 days until he was given a thin pair of underwear to put on. Plaintiff was unable to keep himself clean or perform normal hygienic functions as he was denied the use of soap, towel, toilet paper, tooth brush and other hygienic implements and utensils; plaintiff was compelled under threat of violence, assault or other increased punishments to remain standing at military attention in front of his cell door.”⁴

The case *Hutto Et Al v. Finney Et Al*, (437 U.S. 678, (1978),⁵ is significant because it is one of the first successful lawsuits filed by an inmate against a correctional institution, it also identified and distinguished between what is acceptable and unacceptable punitive measures that a prison might employ. The *Hutto* decision was against the Arkansas Department of Correction, during which the physical conditions of cells, guard behavior, and the diet and sleeping arrangement were scrutinized. It was found by the court that there were continuing problems with overcrowding, race relations, and grievance procedures, as well as inadequate medical service and health care. It has been determined by the United States Supreme Court that

the practice of using punitive isolation for more than 30 days was prohibited by the Eighth Amendment of the United States Constitution. The Eighth Amendment of the United States Constitution prohibits the federal government from imposing “excessive bail, excessive fines or cruel and unusual punishments, including torture.”⁶ The U.S. Supreme Court has ruled that this amendment’s Cruel and Unusual Punishment Clause applies to the states and the same was true in the case of *Holt v Sarver*, 300 F. Supp. 825, (1969),⁷ in which infractions of prison rules did not justify such extreme punishment.

Prison authorities often find it easy to mistreat prisoners in solitary confinement. Abusive conditions of incarceration in many instances are ignored by prison authorities. There are situations where there is justification when it is necessary to maintain control in the prison population. It can easily be considered inhumane. This is a remedy that must be applied when no other alternative is available.

Prolonged Solitary Confinement

On May 31, 2012, the Center for Constitutional Rights (CCR) filed a federal lawsuit on behalf of prisoners at Pelican Bay State Prison who have spent between 10 and 28 years in solitary confinement, *Ruiz v. Brown*, (2012). California prisons’ Security Housing Units (SHU) faced this legal action as part of a greater campaign to alleviate the inhumane conditions. This movement gained force by a hunger strike by thousands of SHU prisoners. The plaintiffs were leaders and participants in the strike. The class action suit alleges that such solitary confinement “violates the Eighth Amendment which is against cruel and unusual punishment, and that the absence of meaningful review for SHU placement violates the prisoners’ right to due process.” This was jointly filed by CCR and several legal organizations. The life for SHU inmates was 22 ½ to 24 hours daily in an overcrowded, cement windowless cell. They had no opportunity for phone calls, contact visits, or educational opportunities. Food was of the lowest quality. Medical care was often not available. The brutal recollection of the case contains these

comments. “More than 500 Pelican Bay SHU prisoners have been isolated under these devastating conditions for over 10 years, more than 200 of them for over 15 years; and 78 have been isolated in the SHU for more than 20 years. This suit asserts that prolonged confinement under these conditions has caused harmful and predictable psychological deterioration among SHU prisoners. Solitary confinement for as little as 15 days is now widely recognized to cause lasting psychological damage to human beings and is analyzed under international law as torture.”⁸

According to an article from The New York Times, “The Cost of Solitary Confinement” talks about how inmates were condemned to solitary confinement for absurd reasons. This article describes the situation of a mentally ill inmate who was remanded to solitary confinement two times for ridiculous reasons. The first incident was for six months for ‘unauthorized possession of nutritional supplements,’ the irony is that they were for sale in the prison lunchroom. The second incident, the inmate was sent to solitary confinement for three years for “. having unauthorized legal materials.”⁹ Those were the justifications for such extreme action. This is just an indication of how prison authorities can be abusive.

The number of prisoners in solitary confinement is getting bigger every year. In an article from the NPR called, “Solitary Confinement: Punishment Or Cruelty?” states that approximately “80,000 American prisoners spend 23 hours a day in closed isolation units for 10, 20 or even more than 30 years.”¹⁰ That is just an estimate considering that there is no exact data regarding inmates in “administrative segregation.”

The case of *Wilkinson v. Austin*, 545 U.S. 209 (2005),¹¹ describes why extreme security measures are necessary for prisoners and prison population problems. The Ohio State Penitentiary (OSP) used ‘Supermax facilities’ to segregate “the worst of the worst” of the prison population to protect other inmates. This is a response to the increasing problem of gangs affiliations and violence in prison. In 1998, after a disturbance in one of its maximum security

prisons, Ohio opened its only Supermax facility. This prison has the size to house up to 504 prisoners in single-inmate cells. The Ohio State Penitentiary (OSP), is one of the most restrictive prisons in Ohio, including death row inmates. Inmates are constantly monitored and must stay in their cells for 23 hours in their 7 by 14 feet cells. Being sent to OSP amounts to total segregation. When a prisoner enters the penal system, an evaluation is made. His security risk is rated from 1 to 5. The complaint by prisoners asserted that Ohio's Old Policy violated due process and the conditions violated the eighth amendment, prohibiting cruel and unusual punishment. Just before the trial started, Ohio initiated its New Policy to be used in the future. The ruling, after 8 days of trial, supported Ohio's prison procedures to the Supermax facility, conforming to the setup protecting prisoner's rights.

The Consequences of Solitary Confinement

Consequences of solitary confinement may leave serious psychological problems such as suicidal tendencies after such confinement when returning to society. They are often afraid of other human beings. Also, some statistics prove that most of the prisoners that are placed in such cell subsequently have many mental illness issues. An article from the American Civil Liberties Union (ACLU) expresses the results of such confinement: "After a mere seven days in solitary confinement, a person's brain activity slows significantly. Every study conducted on the effects of sixty days or more in solitary has found evidence of negative psychological effects and according to Juan Mendez, the UN Special Rapporteur on Torture, solitary confinement for longer than 15 days can amount to torture."¹²

The effects of isolation to the inmates are harsh and unmeasurable. According to investigations from different specialists, prisoners can suffer serious side effects. In an article called, "Trapped in the Hole: America's Solitary Problem" by Sarah Childress from PBS Frontline, she expresses in her article that the situation is aggravated after the isolation. She

stated: “treatment often worsened the inmates' conditions, particularly those already diagnosed with mental illness. It led to higher rates of suicide than in the general prison population.”¹³

Conclusion

In conclusion, solitary confinement should only be used as a last resort when the peace and safety of any part of the prison population is threatened. When this type of incarceration is applied, adequate steps should be taken to minimize potential damage. Solitary Confinement is an extreme measure that at times can have very long term negative consequences for the inmate and the cost of prison resources.

¹ Front Picture

<http://static2.businessinsider.com/image/5228fb52eab8ea3f468b456d/how-to-survive-life-in-solitary-confinement.jpg>

² Madrid v. Gomez, 889 F. Supp. 1146 (1995)

³ Solitary Watch, “Case Closed on Supermax Abuses at Pelican Bay”
<http://solitarywatch.com/2011/02/15/case-closed-on-supermax-abuses/>

⁴ Wright v. McMann, 387 F. 2d 519 (1967)

⁵ Hutto Et Al v. Finney Et Al, 437 U.S. 678 (1978)

⁶ Cornell University Law School.Eighth Amendment
http://www.law.cornell.edu/constitution/eighth_amendment

⁷ Holt v. Sarver. 300F. Supp. 825,834-832 (ED Ark. 1969) (Holt I).

⁸ Ruiz v. Brown (2012)
<http://sfbayview.com/2012/lawsuit-challenges-solitary-confinement-at-california-prison/>

⁹ The New York Times Company. nytimes.com.“The Cost of Solitary Confinement.” (13, Dec. 2012). <http://www.nytimes.com/2012/12/14/opinion/the-cost-of-solitary-confinement.html?ref=solitaryconfinement>

¹⁰ NPR Staff. “Solitary Confinement: Punishment Or Cruelty?.” 10 Mar. 2013.Web.
<http://www.npr.org/2013/03/10/173957675/solitary-confinement-punishment-or-cruelty>

¹¹ Wilkinson v. Austin, 545 U.S. 209 (2005)

¹² American Civil Liberties Union (ACLU). 2013. “Prisoners’ Rights.”
<https://www.aclu.org/blog/prisoners-rights/historic-opportunity-advance-international-norms-prisoners-rights> (22 Oct. 2013).

¹³ PBS

“Frontline”

<http://www.pbs.org/wgbh/pages/frontline/criminal-justice/trapped-in-the-hole-america-solitary-problem/>