



**American Friends  
Service Committee**

**Written Testimony by the American Friends Service Committee  
for the Charles Colson Task Force on Federal Corrections  
March 3, 2015**

Thank you for the opportunity to submit written testimony to the Charles Colson Task Force on Federal Corrections addressing challenges within the U.S. federal corrections system. The American Friends Service Committee (AFSC) is a 100-year old faith-based organization grounded in the Quaker belief in the dignity and worth of every person. Our dedication to humane prison reform originated in the 17<sup>th</sup> and 18<sup>th</sup> centuries when people practicing the Quaker faith were imprisoned for their beliefs and advocacy. Today AFSC works to end mass incarceration, improve conditions for imprisoned people, and promote a reconciliation and healing approach to criminal justice issues.

AFSC appreciates the opportunity to highlight two areas of concern regarding the consequences of overcrowding in Bureau of Prisons (BOP) facilities. The dramatic increase in the BOP prisoner population strains limited resources, creates dangerous conditions that jeopardizes the safety of prisoners, officers and guards, and may increase the use of inhumane treatment of prisoners through placement in specialized units. Specifically, we are called by our faith to advocate for an end to the prolonged solitary confinement and the use of Control Management Units that fail to recognize the humanity of prisoners.

The issues highlighted below are rooted in our work with those held behind bars, those who have been returned to their communities, and family members. We call on the Task Force to advocate for an end to placement in solitary confinement lasting more than 15 days, a requirement that annual data about its use and those held in isolation be published by BOP, and the closing of all Communications Management Units.

## I. Prolonged Solitary Confinement

AFSC invites the Task Force to address the extensive use of prolonged solitary confinement in BOP facilities. This practice prevents prisoners from meaningful human interaction and imposes long term psychological effects, especially on vulnerable populations. Data on those held in solitary and details of their placement in isolation are unavailable to the public, undermining accountability efforts when human rights and Constitutional violations are suspected. It is for these reasons AFSC requests that the Task Force call for an end to placement in solitary confinement for periods of time lasting more than 15 days and to recommend that all BOP facilities be required to report annually to the Bureau of Justice Statistics quantitative data on the use and implementation of isolation.

The use of long-term solitary confinement violates both domestic and international laws. Long term isolation runs afoul of the fundamental 8<sup>th</sup> amendment Constitutional right to be free from cruel and usual punishment.<sup>1</sup> This practice is a breach of binding international agreements to which the U.S. is a part, including: The International Covenant on Civil and Political Rights (Art. 7, 10, 16); the U.N. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Art. 1, 4); and the U.N. Declaration of Human Rights (Art. 5).

As a world leader, the United States has the responsibility to lead the international community by its actions at home in demonstrating respect for all of God's creatures, without exception. Violating the rights of others is immoral and inexcusable.

In the U.S. federal system isolation from the general prison population is classified as "special housing units" (SHU), of which there are two categories: administrative isolation, which is designed to

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<sup>1</sup> Bonnie Kerness, Statement of American Friends Service Committee to the Senate Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights, and Human Rights, (2012).

remove the prisoner from the general population to keep that individual and/or the facility safe for prisoners and staff<sup>2</sup>, whereas disciplinary segregation is used for punitive purposes.<sup>3</sup>

Those placed in solitary confinement experience some of the most psychologically and physically challenging environments in the prison system. Individual cells measure a mere 8x10 feet. Cells are placed side to side and stacked on top of each other in tiers. In many facilities prisoners are restricted to their cells for 23 to 24 hours every day. Lights remain on for 24 hours a day, seven days a week, 365 days a year. The temperature in these cells may be extremely hot or frigidly cold. The cell features a large steel door with a small slot for food trays, preventing meaningful human interaction.<sup>4</sup>

Robert Dellelo, a former solitary confinement prisoner, explained to AFSC his reaction when first being temporarily released from his isolation cell to meet with his attorney:

*“I began to sweat, I couldn’t concentrate. I did not know where to look. It is hard to believe, but I just wanted to get out of the room and go back to my cell. Later on I realized that I was confused because it had been months since I had seen a whole body... Seeing a whole body that moved unpredictably was very unsettling.”*<sup>5</sup>

Prisoners in isolation report anger, bitterness, boredom, stress, losing a sense of reality, suicidal thoughts, difficulty concentrating, sensitivity to stimuli and hallucinations.<sup>6</sup> Mental health experts found rates of psychological and psychiatric issues were greater in populations exposed to solitary confinement than among those who had never been isolated.<sup>7</sup> People with a previous history of psychological problems placed in isolation “generally experience a significant deterioration of their condition” while in isolation.<sup>8</sup> The impact of psychological harm can be grave and irreversible. Fifty

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<sup>2</sup> 28 CFR § 541.23 (2010).

<sup>3</sup> 28 CFR § 514.24 (2010).

<sup>4</sup> Bonnie Kerness & Jamie Bissonette Lewey, *Race and the Politics of Isolation in U.S. Prisons*; Atlantic Journal of Communication; Jan 30, 2014, at 28.

<sup>5</sup> *Id.* at 22.

<sup>6</sup> Peter S. Smith, *The Effects of Solitary Confinement on Prison Inmates: A Brief History and Review of the Literature*, *Crime and Justice* Vol. 34, No. 1, 488 (2006).

<sup>7</sup> *Id.* at 451, 476.

<sup>8</sup> *Id.* at 494.

percent of all prisoners who take their own life are confined in segregation, yet this group of individuals living in isolation comprises only between six and eight percent of the total prison population.<sup>9</sup>

Vulnerable populations should never be placed in solitary confinement due to unique circumstances rendering them more likely to suffer irreparable harm in isolation. Juveniles, the elderly, prisoners experiencing mental illness, and disabled individuals should be shielded from placement in solitary confinement for any period of time.

The destructive impacts on susceptible prisoners placed in solitary confinement are illustrated through the case of Jack Powers. Powers, whose PTSD originated from incidents while incarcerated, is a prisoner at the ADX Supermax Prison in Colorado. Until recently he had been in Control Unit isolation for 12 years where he was denied psychological care and medications for his condition. The stress of being in solitary confinement while suffering the full brunt of his illness led Powers to mutilate himself, including amputating fingers, earlobes, cutting his Achilles tendon, and removing his own testicle and scrotum.<sup>10</sup> Powers was released from solitary only after a lawsuit was filed against the Bureau of Prisons.<sup>11</sup> Prisoners with preexisting conditions putting them at high risk of harm while in solitary confinement must be protected from such placements. BOP should prohibit placing vulnerable populations in isolation for any period of time.

The shroud of secrecy surrounding the use of isolation in BOP facilities continues to distress AFSC. The number of individuals being held in long-term isolation is not public information, though we know through the most recent Census that 81,622 people were in “restricted housing” (which does not include those isolated in county, juvenile and immigration facilities)<sup>12</sup> and an estimated 30,000

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<sup>9</sup> Terry A. Kupers, “What To Do With The Survivors?: Coping With the Long-Term Effects of Isolated Confinement” at 1009 (2008).

<sup>10</sup> Andrew Cohen, *An American Gulag: Descending into Madness at Supermax*, The Atlantic, (Feb. 23, 2014, 4:12 PM), <http://www.theatlantic.com/national/archive/2012/06/an-american-gulag-descending-into-madness-at-supermax/258323/>.

<sup>11</sup> John Jay Powers, “Finally Out and Among the Living”, The Colorado Independent, (Feb. 23, 2014, 4:36 PM), <http://www.coloradoindependent.com/145073/finally-out-and-among-the-living>.

<sup>12</sup> Bonnie Kerness & Jamie Bissonette Lewey, *Race and the Politics of Isolation in U.S. Prisons*; Atlantic Journal of Communication; Jan 30, 2014, at 29.

people live in segregation (the percentage held by BOP is unclear).<sup>13</sup> The length of time prisoners serve in isolation BOP facilities unknown. No studies have been conducted about the financial costs of solitary. The impacts of isolation on the safety and psychology of prison staff is unknown. This lack of knowledge hinders assessment of isolation and raises concerns about the conditions in which individuals are kept, far from the light of public scrutiny.

## II. Communications Management Units

An additional area of concern for AFSC within the BOP are Communications Management Units (CMUs). CMUs are solitary confinement units in the federal system reserved for “inmates who due to their current offense of conviction, offense conduct, or other verified information, require increased monitoring of communications with persons in the community to ensure the safe, secure and orderly running of Bureau facilities, and to protect the public.”<sup>14</sup>

In these facilities the use of solitary confinement is rampant, prisoners are exposed to constant surveillance and their ability to interact with others is severely restricted.<sup>15</sup> Prisoners are prohibited from physical contact with visitors, all communications are monitored, and prior to legal action taken prisoners were permitted only one 15 minute call per week.<sup>16</sup> Access to programming, education, and job training is limited.<sup>17</sup>

CMUs house not just those serving time for terrorism-related convictions but others in social justice movements, people who engage in prisoners’ rights advocacy, who file grievances about their treatment while incarcerated<sup>18</sup>, and whose beliefs and ideology the U.S. seeks to track.<sup>19</sup> Prisoners

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<sup>13</sup> American Friends Service Committee, Solitary Confinement Facts, (Feb. 21, 2014, 6:02 PM), <https://afsc.org/resource/solitary-confinement-facts>.

<sup>14</sup> U.S. Department of Justice, Federal Bureau of Prisons, State of the Bureau 2007: Bureau of Prisons Staff: Everyday Heroes, 2007.

<sup>15</sup> Center for Constitutional Rights, *Aref, et al. v. Holder, et al. Plaintiffs Motion for Summary Judgment Exhibit I, 1*, [ccrjustice.org/files/138.4%20Ehx%201-5.pdf](http://ccrjustice.org/files/138.4%20Ehx%201-5.pdf) (April 23, 2014).

<sup>16</sup> Daniel McGowan, *Court Documents Prove I was Sent to Communications Management Units (CMU) for my Political Speech*, [www.huffingtonpost.com/daniel-mcgowan/communication-management-units\\_b\\_2944580.html](http://www.huffingtonpost.com/daniel-mcgowan/communication-management-units_b_2944580.html) (April 2, 2013, 8:36AM).

<sup>17</sup> Center for Constitutional Rights, *Communications Management Unit Factsheet*, [ccrjustice.org/cmufactsheet](http://ccrjustice.org/cmufactsheet) (2013).

<sup>18</sup> *Id.*

<sup>19</sup> National Public Radio, ‘Guantanamo North’: Inside Secretive U.S. Prisons, [www.npr.org/2011/03/03/134168714/guantanamo-north-inside-u-s-secretive-prisons](http://www.npr.org/2011/03/03/134168714/guantanamo-north-inside-u-s-secretive-prisons) (March 3, 2011, 1:09PM).

sent to CMUs are deemed security threats and thus their actions, letters, emails, calls and visits are constantly observed.<sup>20</sup> The unifying characteristic of these prisoners is not the nature of their conviction but that the U.S. government fears they may recruit others to undertake “terrorist” or “criminal” acts.<sup>21</sup> CMUs rely heavily on extreme conditions of solitary confinement, it isolates prisoners from the general population, and creates an environment intentionally hindering their ability to communicate with the outside world.<sup>22</sup>

BOP policy on CMUs fails to capture its chilling effect on the exercise of free speech. A former Marion Prison warden, Ralph Arons, commented on the practical utility of the CMU at his facility, “(t)he purpose of the Marion Control Unit is to control revolutionary attitudes in the prison system and in society at large.”<sup>23</sup> This mission is not reserved just for the Marion Prison. For example, in the 1980s three women were placed in isolation in a unit similar to a CMU (called the Special Housing Unit). In the court decision that led to the release of two of the women from solitary, the Judge commented on the erosion of psychological health and constitutional rights of these women held in solitary confinement,

*“Defendants may be concerned that the two plaintiffs will persuade inmates within the general prison population to share their political views, but those fears cannot be accommodated at the expense of constitutional rights... The treatment of the plaintiffs has skirted elemental standards of human decency. The exaggerated security, small group isolation and staff harassment serve to constantly undermine the inmates’ morale.”*<sup>24</sup>

Furthermore, CMUs have a disproportionate impact on Muslim inmates who are assumed to be a security threat because of their faith. The Marion CMU Muslim population is 72%, 1200% higher than

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<sup>20</sup> Daniel McGowan, *Court Documents Prove I was Sent to Communications Management Units (CMU) for my Political Speech*, [www.huffingtonpost.com/daniel-mcgowan/communication-management-units\\_b\\_2944580.html](http://www.huffingtonpost.com/daniel-mcgowan/communication-management-units_b_2944580.html) (April 2, 2013, 8:36AM).

<sup>21</sup> National Public Radio, ‘Guantanamo North’: Inside Secretive U.S. Prisons, [www.npr.org/2011/03/03/134168714/guantanamo-north-inside-u-s-secretive-prisons](http://www.npr.org/2011/03/03/134168714/guantanamo-north-inside-u-s-secretive-prisons) (March 3, 2011, 1:09PM).

<sup>22</sup> Daniel McGowan, *Court Documents Prove I was Sent to Communications Management Units (CMU) for my Political Speech*, [www.huffingtonpost.com/daniel-mcgowan/communication-management-units\\_b\\_2944580.html](http://www.huffingtonpost.com/daniel-mcgowan/communication-management-units_b_2944580.html) (April 2, 2013, 8:36AM).

<sup>23</sup> Steve Whitman, *The Marion penitentiary: It should be opened up, not locked down*, *The Southern Illinoisan*, Aug. 7, 1988 at D25.

<sup>24</sup> *Baraldini v. Meese*, 691 F. Supp. 432 (D.D.C. 1988).

the national average of this religious group in federal prisons. This disparity also appears in the Terre Haute CMU where Muslim inmates represent two-thirds of the population.<sup>25</sup>

*“There is no justice and no rights for someone like me who is a foreigner and Muslim... There are people here who don’t have any contact with the outside. They never write or get mail, they have no phone calls and no visits... All our visits, even with family, must be through glass. Stopping me from hugging my baby has nothing to do with national security!” - Y.A., Communications Management Unit: Terre Haute<sup>26</sup>*

Religious belief should never be grounds on which individuals are subjected to isolation and prevented from communicating with loved ones. AFSC calls for all CMUs to be immediately closed because they violate the Constitutional rights of prisoners, provide an extremely harsh environment to which no human being should endure, and impose a disparate impact on people of color, religious minorities and political activists.

AFSC is committed to accompanying those in prison and their family members in addressing poor confinement conditions and ill treatment of all people in BOP facilities. Rooted in our accompaniment with directly impacted communities we urge the Task Force to recommend the following federal prison reforms:

- End the use of solitary confinement for periods over 15 days;
- Prohibit the placement of vulnerable populations in isolation for any period of time;
- Require the BOP to compile and publish annual data about its use of solitary confinement and those held in isolation; and
- Close all Communications Management Units.

The American Friends Service Committee is heartened by the establishment of the Charles Colson Task Force on Federal Corrections. We appreciate the opportunity to present testimony drawn from our organizational experience with individuals and communities impacted by imprisonment in Bureau of Prison facilities.

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<sup>25</sup> Center for Constitutional Rights, *CMUs: The Federal Prison System’s Experiment in Social Isolation*, (Feb. 24, 2014, 10:59 AM), <http://ccrjustice.org/cmu-factsheet>.

<sup>26</sup> Bonnie Kerness, “Torture in United States Prisons: Evidence of Human Rights Violations” at 29 (2012).