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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.¹ 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.² 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

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. 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.

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.

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.

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. 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.

ISOLATION 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.

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.

¹ Evidence presented by the USG in the case of Babar Ahmad and Others v UK, before the European Court of Human Rights (ECHR).

² 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.

