

# The Prison Inside the Prison:

Control Units,  
Supermax Prisons,  
and Devices of Torture

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AFSC published *The Lessons of Marion* in 1985,<sup>1</sup> there were perhaps half a dozen such units scattered around the country. By 1997, forty-five states and the District of Columbia, as well as the federal system, were operating control units.

During the 1990s, a new generation of super-maximum security or supermax prisons began to spread. These institutions were designed for the universal and permanent isolation of all their inhabitants. (Control units, by contrast, confine a subgroup within a larger institution.) By 2002, according to Human Rights Watch, more than 20,000 prisoners, or nearly 2 percent of the U.S. prison population, were being held in long-term solitary confinement.

From the beginning, control units have relied on sensory deprivation. Prisoners are confined in tiny cells the size of a parking space for twenty-three or twenty-four hours a day, often in what they describe as an "eerie silence." In some cases, constant unpleasant noise, or having the lights on twenty-four hours a day, creates a different form of sensory assault, with similar effects.

Letters from prisoners tell of living in a cage the size of a small bathroom (or considerably smaller in some instances), with tiers of other cages above, below, and to either side. Many of the cells have no windows. The cells are often soundproof and there is little interaction with anyone other than staff. Educational or therapeutic programming is nonexistent; even exercise is solitary. Visits, telephone calls, and mail from family and friends are severely restricted, and reading material is censored. When a prisoner leaves the cell, a strip search is conducted, often including a pointedly humiliating anal probe — even though the prisoner may have had no direct contact with another human being for months.

Isolation, of course, has always been part of the prison environment. In some cases, it has been used to place prisoners in protective custody, when either the prisoner or the prison staff believe that a life-threatening situation exists. Solitary confinement has also traditionally been used as a disciplinary

measure, to punish infractions of prison rules. All these forms of isolation have been used in abusive ways. Nonetheless, they are not entirely arbitrary: prison rules are published, violations are written up, and the punishment is mandated for a definite period of time.

With control units — according to prisoners' accounts received by AFSC, as well as investigations by independent monitoring organizations like Human Rights Watch — the decision to isolate the prisoner may be made without any formal proceeding, and the period of isolation most often has no defined endpoint, especially when isolation is imposed for "administrative" rather than "disciplinary" reasons. Because confinement in a control unit is determined by prison authorities rather than the courts, prisoners' constitutional right to due process of law is not recognized.

The newest supermax prisons use advanced technology to create an environment that combines total isolation with unending surveillance. At New York's Upstate Correctional Facility, 1500 prisoners live under the supervision of 370 guards and 800 surveillance cameras. New York's first prison built as a supermax, Upstate opened in 1999. One published account describes how the institution is designed so that prisoners never leave their cells:

Food trays arrive through a slot in the door, and there's a shower in the corner that's carefully regulated to spew lukewarm water three times a week . . . A guard in a central tower . . . control[s] your access to the outside world. Each day, the officer will unlock your back door by flipping a switch in a control room. Now is your time for "recreation" — a privilege that the courts have said you must get. At Upstate, "rec time" means sixty minutes by yourself in the outdoor cage attached to the rear of your cells. It's about half the size of your cell, just big enough to do jumping jacks . . . Looking out from your own personal rec area — what one of the prison's architects describes as a "caged balcony" and some guards call a "kennel" — you'll see other cages and a dirt yard empty except for a row of surveillance cameras mounted on poles. Officers watch your every move, and if you don't come in from recess, they'll come get you ("The Supermax Solution," *Village Voice*, 19 May 1999).

<sup>1</sup> This publication was revised and reissued in 1993; see resource listing on page 11.

## Manufacturing Madness

IT IS WELL ESTABLISHED that isolation and sensory deprivation can aggravate or even cause a variety of psychiatric symptoms. As noted in a briefing paper from Human Rights Watch,

Prisoners subjected to prolonged isolation may experience depression, despair, anxiety, rage, claustrophobia, hallucinations, problems with impulse control, and an impaired ability to think, concentrate, or remember.

In 1996, as part of a National Campaign to Stop Control Unit Prisons, AFSC helped convene public hearings in Massachusetts, New Jersey, Ohio, and Colorado. Former and current control unit prisoners, family members, lawyers, activists, and advocates offered testimony. Through written testimony, prisoners described being awakened at 1:00 in the morning, strip-searched, and then told to pack their belongings to switch cells. At the time this was happening in New Jersey about twice a week.

Prisoners at the federal prison in Florence, Colorado (which has replaced Marion as the federal supermax), described being woken up every hour throughout the night by a flashlight shining in their faces. Prisoners wrote in to report on the devastating effects of extended isolation, including a progressive inability to tolerate even ordinary stimulation. Some of them reported cutting themselves, just so they could feel something.

**In 1985 there were half a dozen control units scattered around the country. By 1997, 45 states and the District of Columbia were operating control units.**

Dr. Stuart Grassian, a psychiatrist at Harvard University Medical School, is known for his expert testimony about the psychological impact of control

units. In an interview with Leo Grieb, Grassian notes that:

The courts have recognized that solitary confinement itself can cause a very specific kind of psychiatric syndrome, which in its worst stages can lead to an agitated, hallucinatory, confusional psychotic state often involving random violence and self-mutilation, suicidal behavior, [and other] agitated, fearful and confusional kind of symptoms.

Elsewhere in this interview, Grassian describes his first visit to a control unit:

I was pretty cynical when I was brought into it, I didn't think I was going to find anything. But I did find something and it was shocking to see what I found — that these inmates were so ill, that they all tended to be ill in very similar kinds of ways, and they were so frightened of what was happening to them that they weren't exaggerating their illness. They were tending to minimize it, to deny it. They were scared of it.

## An Evolving Institution

AS CONTROL UNITS AND SUPERMAXES have expanded, their function within the prison environment has undergone a considerable evolution.

Studies of the recent history of incarceration suggest that isolation and sensory deprivation were initially used in the 1960s as a technique for behavior modification with prisoners involved in the burgeoning prisoners' rights movement (see sidebar next page). In that era, Islamic militants, jailhouse lawyers, ethnically based prison gangs, and activists jailed for both nonviolent and violent political activities all posed potent challenges to the balance of power inside prisons. The concerns raised by all these groups (about racism, brutality, overcrowding, and the like) garnered considerable visibility and support from outside prison walls, and ultimately won a measure of vindication in the courts.

As with other social movements, the prisoners' rights movement and its outside support networks had waned by the end of the 1980s. Once established, however, control units became increasingly normalized as part of the prison environment, and they began to proliferate throughout the system. In

recent years, according to Human Rights Watch, U.S. "experts" have begun promoting the supermax model outside the United States.

As they became more common, supermax prisons were promoted by prison authorities as a cost-effective way of managing the huge increases in the incarcerated population of the 1990s and beyond: a labor-saving measure permitting large numbers of prisoners to be controlled by fewer guards. In reality, when the costs of control units and supermax prisons are analyzed separately from the general costs of incarceration, such settings turn out to be more, not less, expensive, in some cases by a considerable margin.

Once they are built, such institutions acquire their own momentum. Correctional authorities must fill them to justify the cost of their operation, leading to

arbitrary decisions about which prisoners are sent to supermax prisons and why. This development has in turn made the entire system more vulnerable to legal challenges, as detailed in the final section of this issue brief.

In an attempt to cut costs — while relieving the pressures of extreme prison overcrowding — some supermax prisons, like New York's Upstate Correctional Facility, began double-celling prisoners, combining all the stresses of permanent lockdown with enforced proximity to another person, twenty-four hours a day. At one of the nation's most infamous control units, the Security Housing Unit at Pelican Bay State Prison in California, the practice of double-celling was abandoned after ten prisoners killed their cellmates over a period of few years.

## Political Prisoners in the United States

Although U.S. officials routinely deny the existence of political prisoners in the United States, more than 100 political prisoners are currently behind bars, according to the Prisoners of Conscience Project of the National Council of Churches. Some, like members of the Puerto Rican independence movement or *independentistas*, consider themselves to be prisoners of war, captured while fighting to reverse the illegal annexation of their country by the United States. They cite several UN resolutions that condemn colonialism and affirm the right of colonized peoples to secure their independence, if necessary through armed resistance.

Other U.S. political prisoners were members of militant organizations that emerged in the 1960s and 1970s, like the American Indian Movement (AIM), the Black Liberation Army, or the Black Pan-

ther Party. These activists understood themselves to represent the cause of internally colonized peoples within the United States, and they too have considered themselves to be prisoners of war. Members of these groups, including many of those who were imprisoned, were frequently victims of sustained covert operations conducted illegally by the Federal Bureau of Investigation (FBI), through its notorious Counter-Intelligence Program, or COINTELPRO, which was publicly unmasked in the mid-1970s through congressional hearings and other means. Still other political prisoners include white activists who turned to armed struggle, as well as activists from a later generation of social movements, such as the environmental movement.

Political prisoners have often received inordinately lengthy sentences for their

participation in armed actions, as a form of retaliation for the political character of their activities. In some cases, like that of AIM member Leonard Peltier, it has been clearly documented how flagrant government misconduct has resulted in the imprisonment of activists in the absence of any credible evidence against them. In Peltier's case, the fabrication of evidence was confirmed by numerous FBI documents released under the Freedom of Information Act and even acknowledged by a federal appeals judge in open court — after he reaffirmed Peltier's sentence of two consecutive life terms. Likewise, although well-known prisoner Mumia Abu Jamal was never accused of politically motivated violence, his supporters cite numerous procedural flaws in his trial for the murder of a Philadelphia police of-

## Inside the Labyrinth

IN PUBLIC STATEMENTS to the media — or to lawmakers authorizing budgets for prison construction — correctional authorities portray control units and supermaxes as a way to safely confine the most violent and dangerous prisoners. AFSC's experience, however, as well as reports from the research community, strongly suggests that it is largely the most vulnerable prisoners who tend to end up in extended isolation.

Currently, people who are mentally ill, mentally retarded, learning-disabled, or illiterate constitute a large percentage of the prison population. Whether the origins of their problems are neurological, socioeconomic, or both, these populations often experience the greatest difficulties in following prison rules, controlling their own anger, or handling the prison social environment. As a result,

**Often it is not the most violent but the most vulnerable prisoners who end up in extended isolation.**

they are most likely to be written up for disciplinary infractions and transferred to a control unit or supermax facility. Once there, they are the least able to withstand the rigors of isolation and the most susceptible to complete mental breakdown and even suicide. On occasion, prisoners have written to request that AFSC advocate for others who are clearly in need of psychiatric treatment — and are being punished instead with isolation and brutality.

ficer to argue that he is in effect a political prisoner, railroaded in retaliation for his outspoken critique of systematic abuse and brutality by the Philadelphia police, as well as his vocal support for the Black liberation movement.

Over the years, numerous campaigns have sought justice for U.S. political prisoners. Today, millions of people around the world, including countless public figures, are calling for freedom for Leonard Peltier, as well as a new trial for Mumia Abu Jamal. Such support campaigns have sometimes won significant victories. Late in 1999, for example, after sustained public pressure, Leonard Peltier was finally able to obtain life-saving medical treatment that had been denied to him for many years. That same year, a group of Puerto Rican *independentistas* was granted clemency after a prolonged support campaign.

The history of political prisoners in the United States is intimately connected with the history of control units. Many political prisoners have been subjected to prolonged isolation. As noted on page 3, control units were originally introduced as a way of breaking the will of the growing numbers of political prisoners in U.S. prisons. Many political prisoners have been confined for decades in isolation units.

In the 1980s, many church groups supported a successful campaign to close down a control unit for women political prisoners at the Lexington Federal Correctional Institution in Kentucky. This campaign helped publicize the use of isolation and sensory deprivation, as well as sexual abuse, as a tool for behavior modification. When three of the women sued the Bureau of Prisons in 1988, a federal judge acknowledged

that the bureau had persecuted them for their political beliefs and ordered their immediate transfer out of the unit.

AFSC is committed to nonviolence, not as a tactic but rather as a matter of deep philosophical and spiritual commitment. We cannot, however, ignore the existence of political prisoners in the United States. Nor can we disregard violations of their human and civil rights. In the words of a 1981 statement by AFSC's Board of Directors, "We will not support the choice of violence, but where basic human rights and social equity are at issue, Quakers and the AFSC need to be engaged in common cause to the limits of our beliefs [and] capacity." AFSC continues to support campaigns for justice for political prisoners, in the United States and around the world, just as we continue to support the vision of self-determination that has guided their actions.

Segregation may also be used by prison authorities as a form of retribution. AFSC continues to monitor one New Jersey prisoner who blew the whistle on open recruiting by the Ku Klux Klan among prison guards. Prison guards retaliated by holding him in isolation, withholding his AIDS medication, and threatening him with transfer to another state prison that is generally known to be run by Klan members. AFSC, together with local activists from Newark's Boycott Crime Coalition, successfully pressed correctional authorities to block the transfer and order a halt to such retaliation. The prisoner reports harassment every few months, according to AFSC staff, "so we call the commissioner, which takes care of the issue for another couple of months."

Isolation is becoming the favored punishment for more and more groups of prisoners. In recent years, for example, growing numbers of prisoners have been transferred to control units after being accused of membership in a gang, whether prison-based or street gangs.

## **Use of the "gang" label by prison authorities is fraught with racial profiling and racial harassment.**

Both inside and outside prison, gang membership may represent a person's only chance to achieve a measure of security and group connection in a dangerous and violent environment. At the same time, gangs frequently engage in violent criminal activity, terrorizing their own communities. As an organized grouping functioning inside prisons, gangs may challenge the ability of prison authorities to control their institutions — and they may also limit the ability of guards to engage in violence and abuse with impunity. For all these reasons, the social dynamics of gangs are extremely complex.

In inner city communities around the country, many activists are working with youth to help them transform street gangs into community groups that can work to counter the grave problems caused by

structural poverty, joblessness, and capital flight. Other groups are developing new models of community accountability, or strategies for reducing the level of gun violence in poor urban communities.

For several decades, public resources have been progressively withdrawn from all type of services in urban communities. At the same time, government policies, including financial incentives, have encouraged the proliferation of control units in their latest incarnation as "security threat group management units." Currently, the inclusion of such units is mandated by federal standards that govern how subsidies are awarded for state prison construction.

In the contemporary prison environment, use of the "gang" label by prison authorities is fraught with racial profiling, racial harassment, and other forms of abuse. The very definition of what constitutes a "gang" merits questioning. In a 1997 survey issued by the U.S. Department of Justice, for example, the Minnesota Department of Corrections was cited as listing "Native Americans" as a "gang"; both Minnesota and Oregon defined all Asians as "gang" members.

AFSC criminal justice staff in Massachusetts likewise note that prison authorities there consider use of Puerto Rican cultural symbols to be evidence of gang membership, with the result that an overwhelming majority of the state's Puerto Rican prisoners have been labeled as gang members. One prisoner who was tattooed with the logo of a reggae band was classified as a "gang of one" and confined in isolation for ten months. White supremacist groups in prisons, on the other hand, are less likely to be labeled as gangs or transferred to "security threat group" units.

Massachusetts prisoners have been transferred to the "gang block" — with control unit conditions, including permanent lockdown — simply because police have identified them as "associating" with gang members, regardless of their behavior inside the prison. AFSC staff describe conditions on the gang block in these words:

Every guard on every shift is primed to deal with prisoners there with calculated humiliation. They call people names. Frequent cavity searches, even for prisoners who have not left the block, are used

to discourage prisoners from seeking medical help, therapy, or visits. Prisoners who try to fight back, for example by refusing work, have been beaten, tear-gassed, or thrown down the stairs.

The newest trend that AFSC criminal justice programs have observed is the increasing placement of younger and younger prisoners in isolation. At the same time, segregation cells and sensory deprivation are beginning to spread to county jails, where people with shorter sentences, who would once have been held in minimum-security transitional sites, are increasingly being subjected to permanent lockdown and other maximum-security measures.

When such measures were introduced, many prison guards believed that their jobs would be safer, since prisoners were subjected to a more complete regime of control. More recently, however, some guards' unions have begun to question the spread of control

units, because the increased dehumanization and brutalization of the prison environment has a negative impact on guards as well as prisoners.

Brutality, they have learned, inevitably rebounds on those who practice it. In Stuart Grassian's words,

Pelican Bay State Prison became the biggest employer in the region. But I was talking to some of the corrections officers and they were talking about what was happening to some of their friends — the rate had skyrocketed of alcoholism, spousal abuse, suicide. Working in that environment may put money in your pocket, but over time it destroys you psychologically and brings out rage and sadism and violence and brutality. The sobering thought is that if you live in those kinds of environments for too long, you start losing some of your own humanity.

## Isolation, Torture, and the International Community

Under international standards for human rights, extended isolation is banned as a form of torture. In May 2000, the United Nations (UN) Committee Against Torture cited the "excessively harsh regime" of supermax prisons as violations of the Convention Against Torture, adding that such violations are widespread in the United States. It also condemned the resurgence of chain gangs, the sexual abuse of female prisoners, and racially motivated torture and ill treatment by police and prison guards, and called on the United States to abolish the use of stun belts and restraint chairs and to cease imprisoning juveniles with adults.

While other countries do operate isolation units, their use is far more restricted. In the United Kingdom, for example, 0.1 percent of the prison population is confined in isolation, as compared to an estimated 1.8 percent of the

U.S. prison population that is held in supermax prisons, and an unknown number of people in isolation units within traditional prisons and jails. The United States was the first country in the world to operate entire prisons under a regime of permanent isolation and lockdown; now, other countries are beginning to follow the U.S. example.

Many of the practices described in this briefing paper are specifically banned under international human rights covenants that the United States has ratified. For example, the Convention Against Torture prohibits "cruel, inhuman, or degrading treatment or punishment" and defines torture as "the intentional infliction of severe physical or mental pain and suffering." Torture is likewise prohibited by the International Covenant on Civil and Political Rights. Article 5 of the Inter-American Declaration of Human Rights, which is overseen

by the Organization of American States, affirms the right to "physical and mental integrity" as well as the right to "freedom from torture."

While the UN Human Rights Commission, which is responsible for implementation of the Covenant on Civil and Political Rights, has declined to draw up a detailed "list of prohibited acts," it has specified that "prolonged solitary confinement" is prohibited as a form of torture. Another UN code, the Standard Minimum Rules for the Treatment of Prisoners, stipulates that "instruments of restraint, such as handcuffs, chains, [or] irons . . . shall never be applied as punishment."

A previous UN report, issued in 1995, criticized the United States for operating "inhuman and degrading" prisons, citing conditions at Pelican Bay and in

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What's more, the overwhelming majority of prisoners — as many as 94 percent — will eventually return to the community. Some are released directly from solitary confinement to the street. It is well documented that sustained isolation and sensory deprivation leave many prisoners overwhelmed with rage and paranoia that they are unable to understand or control. As one AFSC staff member comments, "people should come out of prison in at least as good shape as they came in."

In the interview cited above, Stuart Grassian makes a similar point:

It's kind of like kicking and beating a dog and keeping it in a cage until it gets as crazy and vicious and wild as it can possibly get and then one day you take it out into the middle of the streets of San Francisco or Boston and you open the cage and you run away. That's no favor to the community.

## Devices of Torture

FROM THE TIME AFSC began monitoring control units, prisoners have reported that they are operated with an extreme level of brutality. Letters from isolation units around the country have told of guards using fire hoses, mechanical restraints and electrical devices, forced "cell extractions," beatings of prisoners in restraints, shackling in painful positions, sleep deprivation, and other forms of cruelty.

Over time, highly disturbing testimony began to emerge from around the country, almost exclusively from those living in isolation. Vivid descriptions were received of restraint belts, restraint beds, stun guns, stun belts, tethers, and waist and leg shackles.

One letter to AFSC described an Arizona prisoner receiving twenty-two shocks from a stun gun before he died. Other letters reported people being sprayed with pepper spray and then being tied down out-

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detention facilities in Texas, Oklahoma, and Tennessee.

While these UN condemnations have helped focus public attention on human rights issues in U.S. prisons, so far they have not resulted in any changes in abusive prison practices. Although the U.S. Constitution declares international treaties to be "the law of the land," the U.S. Senate, in ratifying the international covenants covering prison conditions and torture, declared them to be "non-self-executing," meaning that they were unenforceable in U.S. courts without additional enabling legislation. In addition, the United States has signaled its "reservations" to key elements of these covenants, including the definition of what constitutes "cruel, inhuman, or degrading" punishment.

Some human rights advocates believe that international standards will ultimately provide a powerful instrument to restrain abuses in U.S. prisons. Others caution, however, that the isolationist streak in U.S. political culture provokes resistance to the application of international norms. Most community-based movements, for their part, have been slow to adopt the language of international human rights.

Whether or not they will ever constitute an enforceable legal code, international human rights standards highlight a fundamentally different notion, not only of basic human decency, but also of efficient prison administration. International covenants do not question the right of governments to deprive convicted prisoners of their liberty or even to impose solitary con-

finement. They state unequivocally, however, that governments must not deprive people of their dignity.

International norms suggest that good relations between prisoners and staff, rather than intimidation, brutality, and control, should be the goal for prison authorities. Not just outright torture but depriving people of access to fresh air, light, and exercise are violations of international standards for the treatment of prisoners. Strict medical oversight is seen as a necessity in the operation of prisons, and solitary confinement is prohibited for juveniles. By contrast, U.S. prisons seem increasingly bent on denying and destroying the dignity and the very humanity of all who fall within their grasp.



doors in the sun, where their sweat reactivated the chemical agent. Still others told of prisoners being restrained in chairs with their hands forcibly tucked under their buttocks so they would be soiled by bodily wastes, or urine-soaked pillowcases being placed over the prisoners' heads. One person reported having been strapped down in a restraint chair for twenty-one days.

In another report from California, a mentally ill prisoner who spread feces over his body was given a bath by guards so hot he suffered burns over 30 percent of his body. Other letters received by AFSC indicate that the use of such devices is also growing in women's prisons and juvenile facilities.

Such accounts from individual prisoners have been substantiated through human rights monitoring as well as litigation directed at particular facilities, including the Security Housing Unit at Pelican Bay State Prison in California; the Oklahoma State Penitentiary; the Maximum Control Complex in Indiana; the Secured Housing Unit at the Wabash Valley Correctional Institution, also in Indiana; and the Red Onion State Prison in Virginia.

In some of these cases, outside intervention has resulted in court orders and consent decrees intended to halt the most extreme abuses. At times — as with the Maryland Correctional Adjustment Center, for example — the U.S. Justice Department has stepped in. In recent years, however, legal action has been seriously constrained following the passage in 1996 of the Prison Litigation Reform Act (PLRA). This law limits the power of federal courts to issue injunctions ordering improvements in prison conditions. In addition, the PLRA discourages private attorneys from taking such cases by sharply limiting their fees. It also bars prisoners from seeking damages for illegal mistreatment unless it results in physical injury.

Even so, many legal strategists consider that litigation is still the most effective response to specific abuses, such as brutality or denial of medical care. Nonetheless, they caution, it is less well suited to challenging broad areas of social policy, such as the fundamentally abusive nature of isolation or U.S. refusal to abide by international standards prohibiting torture and mistreatment of prisoners.

## Turning the Tide

SINCE CONTROL UNITS BEGAN to emerge in the late 1960s, AFSC has worked alongside many local and national groups to publicize such abuses and work to end them. Such work frequently includes monitoring the situation of individual prisoners and advocating on their behalf with prison authorities. AFSC staff and volunteers also speak about the issues in college classrooms or public meetings, supply information and contacts to journalists, testify before policy makers, and work with legal advocacy groups to identify cases for litigation. Several of AFSC's criminal justice programs coordinate volunteer "pen pal" programs, helping to strengthen communication between prisoners and the larger community.

## Legal strategies cannot address the basic issue of whether supermax conditions are ever appropriate for anyone.

In response to the spread of isolation, AFSC has also developed various educational resources (see page 11). These include a 1998 "Survivor's Manual," in which prisoners and others share perspectives about withstanding the psychological corrosion of isolation. Publication of this manual helped seven Pennsylvania prisoners secure their release from a control unit, as well as assisting hundreds of others to cope with brutal and damaging conditions. The Prison Watch Program in Newark, NJ, also maintains a "brief bank," so that legal strategies and arguments may be shared among prisoners who are contesting their subjection to isolation.

Skyrocketing rates of incarceration and the spread of control units affect not only prisoners but also their families, friends, and communities, with a devastating impact on many low-income communities and communities of color. In response, community-based coalitions have begun to play a key role in challenging the spread of isolation. One example is the Massachu-

setts-based Campaign to Build Safer Communities, a broad-based coalition initiated by AFSC and endorsed by elected officials, community groups, prisoner family networks, and human rights organizations.

The Massachusetts campaign has been successful in focusing community attention on its efforts to shut down the Departmental Disciplinary Unit (DDU), the control unit at the state prison in South Walpole, MA. In October 2002, these sustained organizing efforts helped win a major victory in a

legal challenge, *Haverty et al. v. Commissioner of Corrections*. This case, which dates back to the mid-1990s, challenged systematic violations of due process in the assignment of prisoners to the DDU.

The legal victory in Massachusetts, and the growing level of community mobilization, echoes the experience of many other areas around the country. Litigation in Ohio (see sidebar below), Texas, New Jersey, and Wisconsin has produced victories for the growing movement against control units. Perhaps

### "Today I felt the rain on my face"

"Everyone said it was hopeless," recalls activist lawyer Staughton Lynd, when a group of prisoners challenged the way the state of Ohio assigns prisoners to the Ohio State Penitentiary (OSP), a supermax prison that opened in 1998. "Security classification," explains Lynd, "is at the core of the mission" for the Ohio Department of Rehabilitation and Correction, and legal experts believed that the prisoners were sure to lose their class-action suit, *Austin v. Wilkinson*.

Instead, in February 2002 the plaintiffs won a significant legal victory, when a federal district court ruled that the state must follow strict due-process guidelines before sending prisoners to OSP. Following the decision, the number of people incarcerated at OSP quickly began to fall, when a court-ordered review of individual cases determined that some two-thirds of the prisoners did not meet the criteria for such restrictive confinement.

While this is only a partial victory, it is one that has a significant impact in prisoners' lives, since many prisoners were quickly taken off "high max" (supermax) status. "Since this decision," notes Lynd, "we've been getting letters saying things like, 'today I felt the rain on

my face', or 'they gave me a whole apple'. One prisoner wrote in to say, 'I sat outside and smoked a whole cigarette'." In addition, several dozen prisoners at OSP are finally receiving treatment for hepatitis C, because of the medical monitor ordered by the court.

Staughton and Alice Lynd, lifelong activists and retired lawyers, have been monitoring OSP since it opened its doors in 1998. "Over the years," says Alice Lynd, "I've been in close correspondence with more than 300 prisoners there. I counsel prisoners on strategies for addressing their circumstances and they feed back information on the results." When considering litigation, "before we filed anything we would go and talk to the prisoners for their insights. Prisoners were involved in every key decision about legal strategy."

Staughton describes the "extraordinary meetings" during this case with the group of plaintiffs. OSP authorities did not allow the Lynds to meet with their clients face to face, permitting the group to meet only in empty dormitories or "pods" inside the prison. "The prisoners were each in individual cells," he explains, "talking through food slots in

solid steel doors. You're meeting with a dozen pairs of eyes. People have to shout at the top of their lungs to make themselves heard.

"People think that prisoners cannot take initiative on their own behalf," he continues, "but the human spirit is infinitely resourceful." One moment that "stays with me," he adds, is of a meeting during the trial when the prisoners voted not to accept a settlement offer from the state. "They said, 'It would help me personally, but it's not going to solve the problem'."

At the trial, recalls Staughton, "I questioned thirteen prisoners about their experience of supermax confinement, from 3:00 p.m. one day to 5:00 p.m. the next. The witnesses were immensely dignified, they each gave an incisive presentation ... and we won."

*Austin v. Wilkinson* sets an important precedent because the court certified that incarceration in a supermax prison is a "significant hardship," the legal standard for a claim under the due process clause of the Bill of Rights. Future litigation defending prisoners' rights will be able to draw on this precedent to argue that supermaxes undermine basic constitutional rights.

most important, legal cases have served as a focus for widespread community opposition, which, together with the high costs of building and operating supermax prisons, has slowed the proliferation of these institutions.

Such victories, while encouraging, still fall short of a real solution to the problems posed by control units. Successful legal challenges have often focused on due process issues about how prisoners are assigned to supermax prisons or control units. In several states, however, activists report that prison authorities have responded by simply changing the classification of the prison or unit to "general population," without actually changing the conditions that sparked the litigation.

Other cases have focused on issues relating to mental health and medical care. The resulting

legal victories, notes one AFSC staff member, have "improved things somewhat, but the quality of medical and mental health services in prisons is so low overall that it will never be satisfactory." In general, she adds, legal strategies "cannot address the basic issue of whether supermax conditions are ever appropriate for anyone."

AFSC believes that isolation units, supermax prisons, sensory deprivation, brutality toward prisoners, and the use of devices of torture are all violations, not only of human rights, but also of fundamental human decency. All have little or nothing to do with the safe and orderly operation of correctional institutions — and everything to do with the spread of a culture of violence, retribution, dehumanization, and sadism.

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## AFSC Resources on Control Units and Isolation

- "The Lessons of Marion: The Failure of a Maximum Security Prison," Anthony Prete, ed., AFSC, Philadelphia, 1993. Available for \$3 from AFSC's national Criminal Justice Program in Philadelphia, PA; tel. 215.241.7048; e-mail Bmatschek@afsc.org. Free to prisoners.
- Lock Up/Lock Down, produced by James Lipscomb, 2000. This video documentary on control units was produced with assistance from AFSC programs in Ohio and New Jersey. Available for \$19.95 from Discovery Channel, tel. 1.800.938.0333.
- "Prison Conditions and the Treatment of Prisoners," in *Torture in the United States*, 1999, World Organization Against Torture-USA. May be downloaded from <http://www.woatusa.org/CAT/catreport/prisons.html>.
- The website [www.shutdownnudu.org](http://www.shutdownnudu.org) is operated by the Campaign to Build Safer Communities, a broad-based coalition initiated by the Criminal Justice Program in AFSC's New England Regional Office. The website includes state-ments and action alerts from the campaign, as well as fact sheets on control units and information on Massachusetts based initiatives. Printed versions of campaign materials are available from American Friends Service Committee, 2161 Massachusetts Ave., Cambridge, MA 02140; tel. 617.661.6130, ext. 120; e-mail jbissonnette@afsc.org.
- "Survival in Solitary," AFSC and California Prison Focus, 1997, 1999. Available free of charge from the Prison Watch project of AFSC's Criminal Justice Program in Newark, NJ; tel. 973.643.3192; e-mail bkerness@afsc.org.
- "Torture in U.S. Prisons: Evidence of U.S. Human Rights Violations," Julia Lutsky, ed., AFSC Criminal Justice Program, Newark, NJ, 2001. Collection of testimonies from prisoners; available free of charge from the Prison Watch project of AFSC's Criminal Justice Program in Newark, NJ; tel. 973.643.3192; e-mail bkerness@afsc.org.

With each passing year, such practices have become more routine throughout the prison system. By now, virtually every state prison in the country routinely utilizes control measures that just a decade ago were seen as unusual — and horrifying. Currently, as we have noted, these measures are beginning to spread to county jails, juvenile facilities, and prisons for women.

This culture of violence is profoundly destructive to those who suffer its effects, brutalizing not only

prisoners, but also prison guards and officials who become the daily agents of inhumanity. The larger community is also gravely harmed — not only by the practical difficulties of reintegrating human beings who have been so deeply traumatized, but also by the profound erosion of our simple humanity. Here, as in every arena of life, violence only breeds more violence. Institutionalizing the use of violence can never solve the problems that violence has created, in our communities or in our world.

# **AFSC Healing Justice Programs**

## **National Office**

Healing Justice Program  
Programs Division  
1501 Cherry St.  
Philadelphia, PA 19102

## **Regional Programs**

### **Ann Arbor, MI**

1414 Hill St.  
Ann Arbor, MI 48104

### **Baltimore, MD**

4806 York Rd.  
Baltimore, MD 21212

### **Cambridge, MA**

2161 Massachusetts Ave.  
Cambridge, MA 02140

### **Newark, NJ**

972 Broad St., 6<sup>th</sup> Floor  
Newark, NJ 07102

### **Oakland, CA**

1515 Webster St.  
Oakland, CA 94612

### **St. Louis, MO**

438 North Skinker Blvd.  
St. Louis, MO 63130

### **Tucson, AZ**

931 N. Fifth Ave.  
Tucson, AZ 85705

*For addresses and phone number around the country, see the  
"locations" tab on the AFSC website.*

# Justice Visions

**What is the meaning of justice in a world based on violence, exclusion and inequality?**

*Additional working papers in this series from the American Friends Service Committee*

## **Whose Safety?**

### **Women of Color and the Violence of Law Enforcement**

This comprehensive research report documents how women of color, both immigrant and U.S.-born, face violence and the abuse of authority in their interactions with law enforcement — from local police to the prison system to the US Border Patrol to ICE raids and detention facilities. Like intimate violence, the violence of the state affects every aspect of women's lives, from reproductive rights to safety in the home to rights and dignity in the workplace. Copublished by AFSC and the Committee on Women, Population, and the Environment. *A Justice Visions working paper by Anannya Bhattacharjee.*

## **Justice in a Time of Broken Bones:**

### **A Call to Dialogue on Hate Violence and the Limitations of Hate Crimes Legislation**

Is the current push for stronger hate crimes legislation an opportunity to strengthen rights and recognition for lesbian, gay, bisexual, and transgender communities—or a strategy that will yield many unintended consequences? What is the meaning of justice—and safety—for groups affected by hate violence, such as LGBT people, people of color, Jews, Muslims, people with disabilities, and women? What does it mean to organize against hate violence when we envision justice as an expression of the transformative power of love and community, rather than punishment and retribution? *A Justice Visions Working Paper by Katherine Whitlock.*

Justice Visions working papers, as well as shorter executive summaries for each, may be downloaded as PDFs from [www.afsc.org](http://www.afsc.org) (see “free resources” under the “resources” tab on the AFSC website).

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