

Upwards of 100,000 people held in solitary confinement in the US

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“I hold this slow and daily tampering with the mysteries of the brain, to be immeasurably worse than any torture of the body; and because its ghastly signs and tokens are not so palpable to the eye and sense of touch as scars upon the flesh; because its wounds are not upon the surface, and it extorts few cries that human ears can hear; therefore I the more denounce it, as a secret punishment which slumbering humanity is not roused up to stay.”

—Charles Dickens, “Philadelphia, and its Solitary Prison,” Ch.7 in *American Notes* (1842)

These words, written over 170 years ago, describe the horrific conditions witnessed by Dickens at Eastern State Penitentiary in Philadelphia, the first American prison to incorporate solitary confinement cells. Since then, the US Supreme Court has never ruled the practice unconstitutional, despite its clear violation of the Eighth Amendment’s ban on “cruel and unusual punishments.” Today, Dickens’ words accurately describe the daily torture inflicted upon upwards of 100,000 prisoners presently held in solitary confinement across the American gulag system.

A recent report, “Time-in-Cell: The Liman-ASCA 2014 National Survey of Administrative Segregation in Prison,” conducted by the Liman Program of Yale Law School and the Association of State Correctional Administrators, found that in 2014 between 80,000 and 100,000 prisoners languished in solitary confinement in US state and federal prisons.

This figure amounts to between 5 and 7 percent of the prison population of approximately 1.5 million, significantly higher than any previous estimate. The range was calculated based on surveys conducted at jurisdictions holding about 73 percent of the prison population, which excludes local jails, juvenile facilities and immigration and military detention

centers.

With the entire US incarcerated population estimated at 2.4 million, and solitary confinement routinely practiced at every level, the total population currently held in isolation undoubtedly surpasses 100,000, more than the total incarcerated population of the United Kingdom, the European country with the highest level of incarceration.

The study found that in most jurisdictions, prisoners are confined to their cell for at least 23 hours on weekdays and 24 hours on weekends, so that the permitted time out-of-cell typically ranged between a mere three to seven hours each week.

Only two states—Colorado and Georgia—impose any time limitation on solitary confinement, while the rest have no fixed time limits whatsoever. A jurisdiction in Texas reported that 44 percent of its 6,491 inmates held in solitary confinement have been housed that way for at least three years. Many of the jurisdictions surveyed fail to track the number of continuous days a person has been held in solitary confinement.

“In virtually all jurisdictions, the possessions that prisoners can keep in their cells, the programs, visits, and telephone calls they might be able to have access to could be cut back or stopped as sanctions for misbehavior,” the report notes.

Many jurisdictions confine prisoners to cells of merely 45 square feet, with some even placing two prisoners into these cage-sized cells for upwards of 23 hours per day. Several jurisdictions located in hot, humid climates—including Alabama, Florida, Georgia, Louisiana and Texas—reported that they do not provide air conditioning in their solitary confinement units.

A previous study conducted in 2013 by the Liman Program found that the reasons given by authorities for placing prisoners in solitary confinement are often

highly arbitrary. The report found that guards would claim that prisoners posed “a threat” to “the life, property, security, or orderly operation of the institution,” were seen as posing a danger to “self, staff, or other inmates” or were confined as a means to “protect the public.” The researchers found that guards often placed prisoners in solitary confinement when “mad” at them, noting that “a wide net of authority permits institutions to place prisoners into segregation.”

This most recent report on solitary confinement comes amid a series of exposures of the barbaric practice, as well as broader public awareness of the issue following the suicide of Kalief Browder last June. Browder was imprisoned at Rikers Island in New York for three years for a crime he did not commit, spending much of the time in solitary confinement.

Browder’s attorney and friend, Paul V. Prestia, highlighted the role that solitary confinement played in his friend’s decision to commit suicide, telling the *Los Angeles Times*, “I think what caused the suicide was his incarceration and those hundreds and hundreds of nights in solitary confinement, where there were mice crawling up his sheets in that little cell ... Being starved ... That was the pain and sadness that he had to deal with every day, and I think it was too much for him.”

The practice of solitary confinement was largely abandoned during the Progressive Era at the turn of the 20th century. In an 1890 opinion, US Supreme Court Justice Samuel Freeman Miller noted, “A considerable number of the prisoners fell, after even a short confinement, into a semi-fatuous condition, from which it was next to impossible to arouse them, and others became violently insane; others still, committed suicide; while those who stood the ordeal better were not generally reformed, and in most cases did not recover sufficient mental activity to be of any subsequent service to the community.”

However, the court chose not to rule the practice unconstitutional, and it later became associated with the notorious Alcatraz prison located in San Francisco Bay. In 1983, two correctional officers were killed by inmates at a Marion, Illinois prison, prompting a “permanent lockdown” and the imposition of 23-hour-a-day cell isolation conditions. Similar measures were adopted at prisons in other states throughout the 1980s.

In 1989 California constructed the Pelican Bay State Prison, the country’s first prison dedicated solely to

solitary confinement, known colloquially as a Supermax facility. During the 1990s, Supermax facilities were built in states across the US, so that by 2005, 40 states operated Supermax or control-unit prisons, collectively holding more than 25,000 isolated prisoners.

Throughout the history of solitary confinement, the Supreme Court and the federal court system have been largely inactive on the issue, ensuring that its legality is determined on a state-by-state basis.

The most recent court action, which reforms solitary confinement policies in California prisons, only came about due to the tenacious efforts of a group of prisoners held at Pelican Bay for over 10 years, who demanded an end to their inhumane treatment. On Tuesday, a federal court ruled that prisoners in the state would no longer be sent to solitary confinement based solely on their gang affiliation, the most common justification employed by prison officials in California.

Nevertheless, the court decision still enables prison authorities to hold inmates in solitary confinement for up to 10 years, at which point a magistrate judge will determine whether they should continue to languish in isolation. An estimated 4,600 prisoners will remain in isolation for shorter terms, while nearly 1,000 others, including hundreds of mentally ill prisoners, will remain in isolation for 10 years or more.

The widespread use of solitary confinement in the US exposes the nature of the US prison system as one based on vengeance and retribution, not rehabilitation. A society that relegates upwards of 100,000 people into cramped cells, often for decades on end, enduring psychological damage “immeasurably worse than any torture of the body,” is clearly in a state of terminal decline.



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