



Solitary Confinement: Cruel But Not Unusual Punishment

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Central AZ National Lawyers Guild

National Lawyers Guild

The NLG is dedicated to the need for basic change in the structure of our political and economic system.

We seek to unite the lawyers, law students, legal workers and jailhouse lawyers to function as an effective force in the service of the people, to the end that human rights shall be regarded as more sacred than property interests.

Our aim is to bring together all those who recognize the importance of safeguarding and extending the rights of workers, women, LGBTQ people, farmers, people with disabilities and people of color, upon whom the welfare of the entire nation depends; who seek actively to eliminate racism; who work to maintain and protect our civil rights and liberties in the face of persistent attacks upon them; and who look upon the law as an instrument for the protection of the people, rather than for their repression. Learn more about our history with the links to the left.

The NLG is a proud member of:

[Alliance for Justice](#)

[International Association of Democratic Lawyers](#)

[May First/People Link](#)

[US Campaign to End the Israeli Occupation](#)



The Jailhouse Lawyer's Handbook



This Handbook is a resource for prisoners who wish to file a Section 1983 lawsuit in federal court regarding poor conditions in prison and / or abuse by prison staff. It also contains limited information about legal research and the American legal system.

The Handbook is available for free to anyone: prisoners, lawyers, families, friends, activists and others.

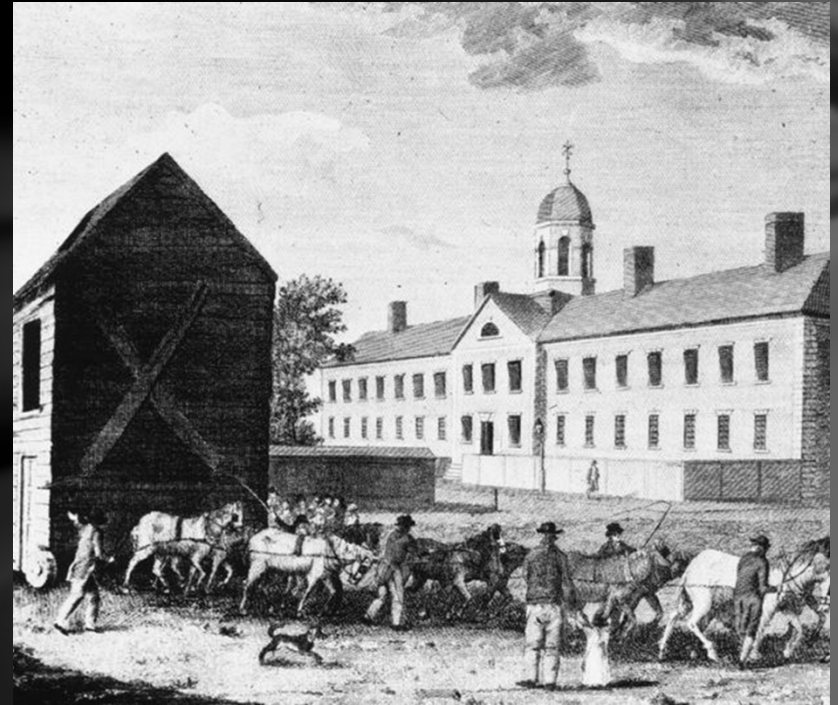
Origins of Solitary Confinement

“Separate” and “Silent”

Solitary was first introduced in 1790 at the Walnut Street Jail in Philadelphia by the Society for Alleviating the Miseries of Public Prisons.

19th Century Theory: when prisoners left alone with Bible and conscience, they would engage in inner reflection and see error in their ways

Mental Illness was actual outcome



Modern Application of Solitary Confinement

Short-term discipline

Political prisoners

Protective custody

Prelude to interrogation of detainees

Gang control

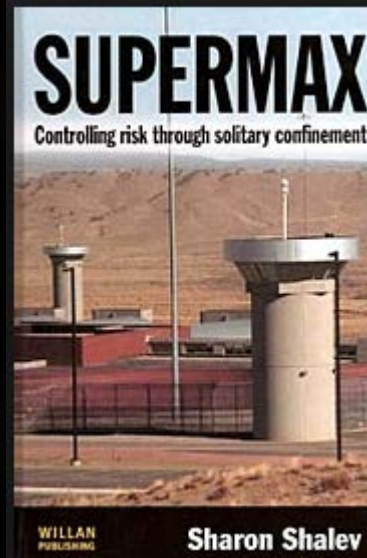
Long-term super-max



Super-Max and Special Security Prisons

Federal Government and at least 44 states
run such a prison

Guantanamo Bay



Human Rights Concerns

International Covenant on Civil and
Political Rights (ICCPR)

UN Convention Against Torture (CAT)

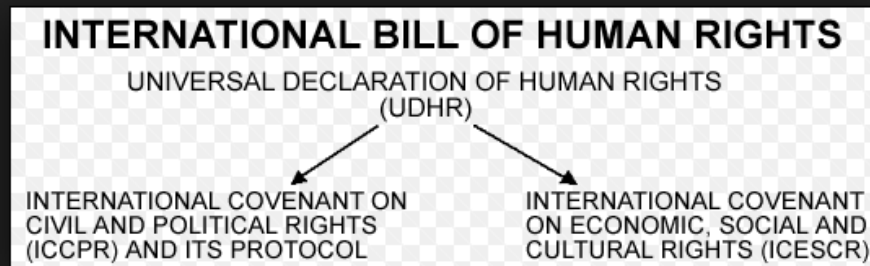
UN Standard Minimum Rules for the
Treatment of Prisoners (SMR)

Convention against Torture
and Other Cruel, Inhuman or Degrading
Treatment or Punishment

International Covenant on Civil and Political Rights (ICCPR)

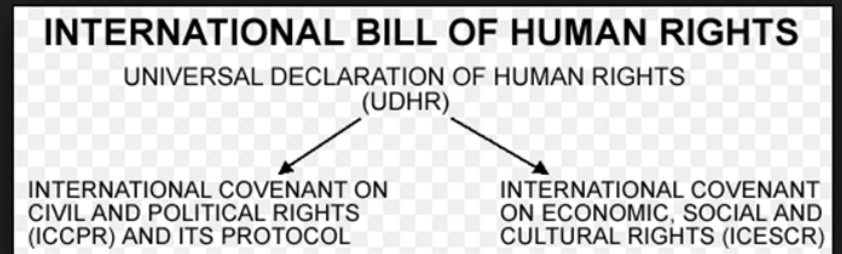
Article 7 of the ICCPR proclaims that *"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment..."*.

The terms cruel, inhuman or degrading treatment or punishment, *"should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental, including the holding of a detained or imprisoned person in conditions which deprive him, temporarily or permanently, of the use of any of his natural senses, such as sight or hearing, or of his awareness of place and the passing of time"* (Note to Principle 6, Body of Principles).



International Covenant on Civil and Political Rights (ICCPR)

Article 7 is closely linked to Article 10 of the ICCPR, which proclaims that *"All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person ...the penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation"*.



The UN Convention Against Torture

The Convention Against Torture was adopted by the UN General Assembly in 1984 and came into force in 1987. Article 1 of the Convention stipulates that:

For the purpose of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person....

Convention against Torture
and Other Cruel, Inhuman or Degrading
Treatment or Punishment

UN Special Rapporteur on Torture Juan Mendez Condemns Solitary Confinement

Mendez reports to the UN Commission on
Human Rights

In October 2011, he called for a total ban
on solitary for juveniles, mentally ill, pre-
trial detainees.

Solitary should be limited to 15 days for
everyone else, and used only for safety
purposes



Historic Accounts of Health Effects of Solitary Confinement

1854: Prison Psychosis:

prolonged absolute isolation has a very injurious effect on the body and mind and seems to predispose to hallucinations”(Germany)

Immediate termination recommended



Historic Accounts of Health Effects of Solitary Confinement

England, where in 1850 for example, 32 out of every 1000 prisoners had to be removed from their solitary cells in Pentonville prison on grounds of insanity, compared to 5.8 prisoners per 1000 in prisons not practising solitary confinement (McConville, 1981:208-9). In



Historic Accounts of Health Effects of Solitary Confinement

US Supreme Court noted that the effects of solitary confinement were such that “a considerable number of prisoners.... fell into a semi-foetus condition... and others became violently insane”

(Re Medley, 1890:167-8).



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. It became evident that some changes must be made in the system, and the separate system was originated by the Philadelphia Society for Ameliorating the Miseries of Public Prisons, founded in 1787. The article then gives a great variety of instances in which the system is somewhat modified and it is within the memory of many persons interested in prison discipline that some 30 or 40 years ago the whole subject attracted the general public attention, and its main feature of solitary confinement was found to be too severe.

In re Medley, 134 U.S. 160, 168, 10 S. Ct. 384, 386, 33 L. Ed. 835 (1890)

Modern Health Findings of Solitary Confinement

Council of Europe (1977) study suggested that prolonged close-confinement of long-term prisoners led to what was termed 'separation syndrome' that included emotional, cognitive, social and physical problems



Modern Health Findings of Solitary Confinement

Benjamin & Lux (1977:262) stated that "evidence overwhelmingly [indicates] that solitary confinement alone, even in the absence of physical brutality or unhygienic conditions, can produce emotional damage, decline in mental functioning and even the most extreme forms of psychopathology such as depersonalization, hallucinations and delusions".



Modern Health Findings of Solitary Confinement

Pelican Bay Security Housing Unit, reported a very high prevalence of symptoms of psychological trauma with

91% of the prisoners sampled suffering from anxiety and nervousness,

more than 80% suffering from headaches, lethargy and trouble sleeping

and 70% fearing impending breakdown.

More than half of the prisoners suffered from nightmares, dizziness and heart palpitations and other mental-health problems caused by isolation, which included ruminations, irrational anger and confused thought processes (more than 80% of prisoners sampled), chronic depression (77%), hallucinations (41%) and overall deterioration.



The outside "yard" at Pelican Bay. Inmates are allowed an hour-and-a-half alone in this small, enclosed space each day. They are not allowed to bring anything except the clothes they're wearing.

Laura Sullivan, NPR

Prisoner Accounts

Finally, the growing body of research into the health effects of confinement in 'supermax' prisons in the United States (for example: Cloyes et al. (2006); Haney (2003); Kupers (1999); Miller (1994); Miller & Young (1997); Rhodes (2004); Grassian, (2006).) largely confirms findings reported in earlier studies, namely, that "this experience is psychologically painful, can be traumatic and harmful, and puts many of those who have been subjected to it at risk of long-term emotional and even physical damage"

(Haney& Lynch, 1997:500).



Prisoner Accounts

I have seen inmates lose their mind completely because of the sound of a light where they are yelling at the light, cursing at the light, believing that for some reason the [authorities] planted some kind of noise inside the light purposely...and so the inmates that ain't strong minded, don't have something to hang on to, the light, the sound of the door, can make them lose their mind... I found it strange, you know, how can a grown man, a very big, grown man, break down to a light. But that's what [that

place] can do. And once you lose your mind, you don't know right from wrong. You don't know that

you're breaking a rule. You don't know what to do exactly



Prisoner Accounts

hard to distinguish between reality and their own thoughts, or found reality so painful that they created their own fantasy world.



"the cell walls start wavering... everything in the cell starts moving; you feel that you are losing your vision".

"you get sensitive to noise. The plumbing system... the water rushes through the pipes- it's too loud, gets on your nerves. I can't stand it. Meals- I can't stand the smells....the only thing I can stand is the bread"

Physiological Effects

Heart palpitations (awareness of strong and/or rapid heartbeat while at rest)

Diaphoresis (sudden excessive sweating)

Insomnia

Back and other joint pains

Deterioration of eyesight

Poor appetite, weight loss and sometimes diarrhoea

Lethargy, weakness

Tremulousness (shaking)

Feeling cold

Aggravation of pre-existing medical problems.



Psychological Effects

Anxiety, ranging from feelings of tension to full blown panic attacks

Persistent low level of stress

Irritability or anxiousness

Fear of impending death

Panic attacks



Psychological Effects

Depression, varying from low mood to clinical depression

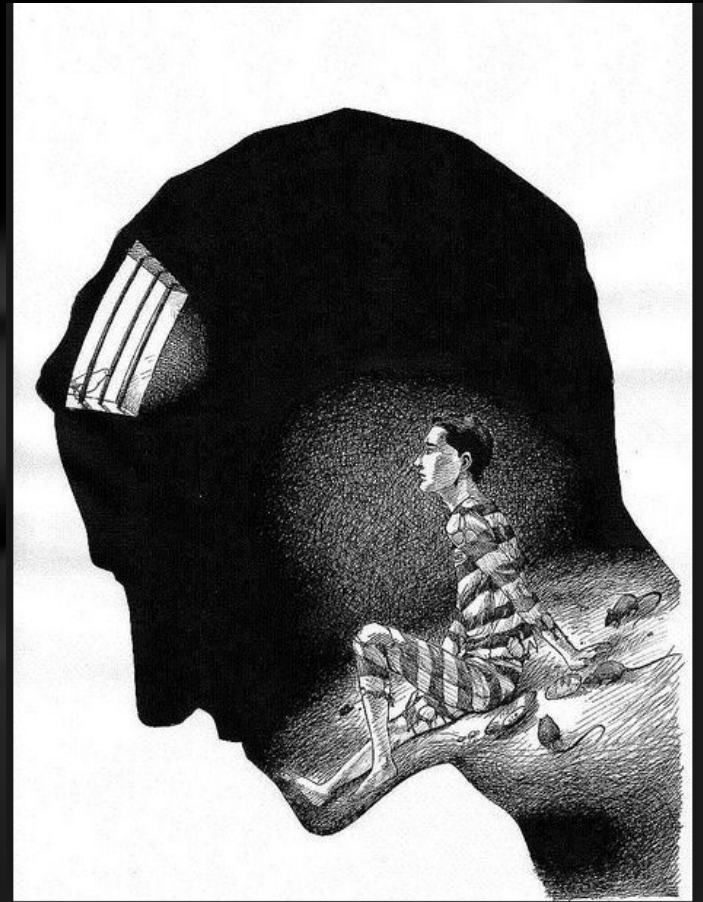
Emotional flatness/blunting – loss of ability to have any 'feelings'

Emotional lability (mood swings)

Hopelessness

Social withdrawal; loss of initiation of activity or ideas; apathy; lethargy

Major depression



Psychological Effects

Anger, ranging from irritability to full blown rage

Irritability and hostility,

Poor impulse control

Outbursts of physical and verbal violence against others, self and objects

Unprovoked anger, sometimes manifesting as rage



Psychological Effects

Cognitive disturbances, ranging from lack of concentration to confusional states

- Short attention span
- Poor concentration
- Poor memory
- Confused thought processes; disorientation.



Psychological Effects

Perceptual distortions, ranging from hypersensitivity to hallucinations

- Hypersensitivity to noises and smells
- Distortions of sensation (e.g. walls closing in)
- Disorientation in time and space
- Depersonalisation/derealisation
- Hallucinations affecting all five senses, visual, auditory, tactile, olfactory and gustatory (e.g. hallucinations of objects or people appearing in the cell, or hearing voices when no-one is actually speaking).



Psychological Effects

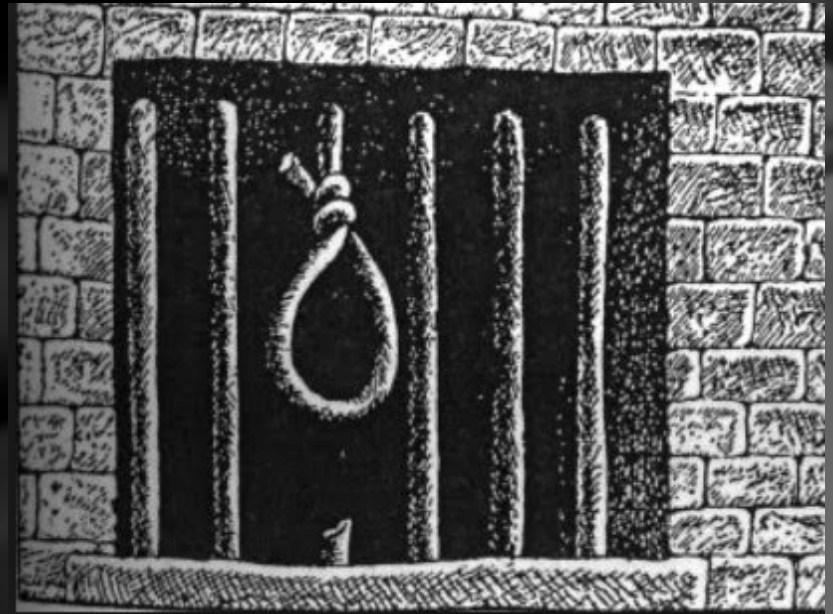
Paranoia and Psychosis, ranging from obsessional thoughts to full blown psychosis

- Recurrent and persistent thoughts (ruminations) often of a violent and vengeful character (e.g. directed against prison staff)
- Paranoid ideas – often persecutory
- Psychotic episodes or states: psychotic depression, schizophrenia.



Self-Harm and Suicide

In California, for example, a reported 69% of prison suicides in 2005 occurred in segregated housing units (USA Today, 27/12/2006),



Self-Harm and Suicide

self-mutilation as a means to “liberate the self from unbearable tension- the physical pain becomes a compensatory substitute for psychic pain or shame”

“I found myself curled up in a foetal position rocking myself back and forth and banging my head against the wall. In the absence of sensation, it’s hard sometimes to convince yourself that you’re really there”



Causes of Harm

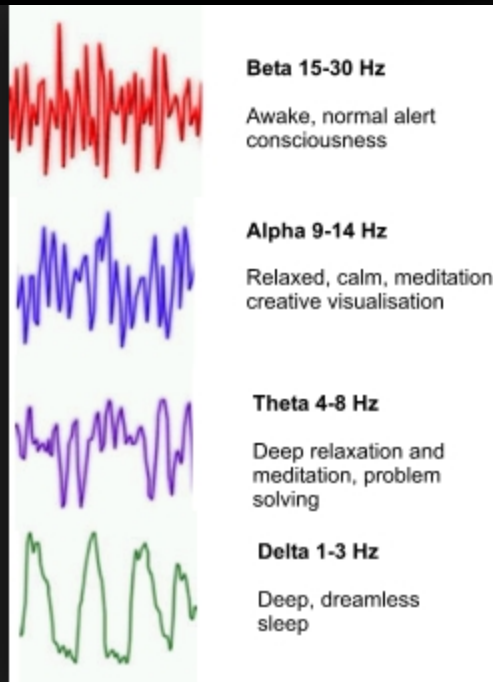
Social

Isolation



The self... is essentially a social structure and it arises in social experience. After a self has arisen, it in a certain sense provides for itself its social experiences, and so we can conceive of an absolutely solitary self. But it is impossible to conceive of a self arising outside social experience. When it has arisen we can think of a person in solitary confinement for the rest of his life, but who still has himself as a companion, and is able to think and to converse with himself as he had communicated with others.... This process of abstraction cannot be carried on indefinitely. (Mead, 1934, emphasis added).

Reduced activity and stimulation



seven days in isolation there was a decline in brain activity. This decline “was correlated with apathetic, lethargic behaviour... and with a reduction in stimulation seeking behaviour.

Up to seven days the EEG decline is reversible, but if deprived over a long period this may not be the case”

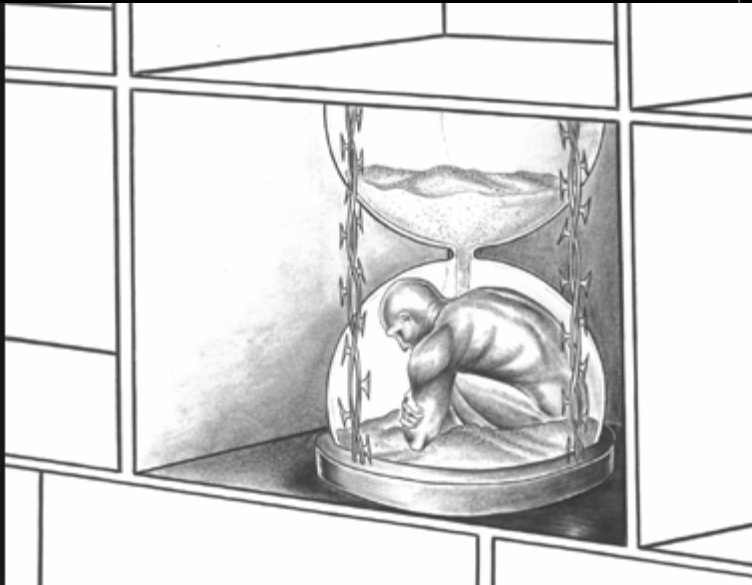
(Scott & Gendreau, *ibid.*).

Lack of control



“either reaction to the system of rigid discipline tends to become something very much like insanity – apathy, listlessness, vagaries, or else irritability, hatred and nervous instability” (Sutherland & Cressey, 1955:473). Another study similarly noted that over time, symptoms experienced by isolated prisoners are “likely to mature into either homicidal or suicidal behaviour” (McCleery, 1961:265).

Duration

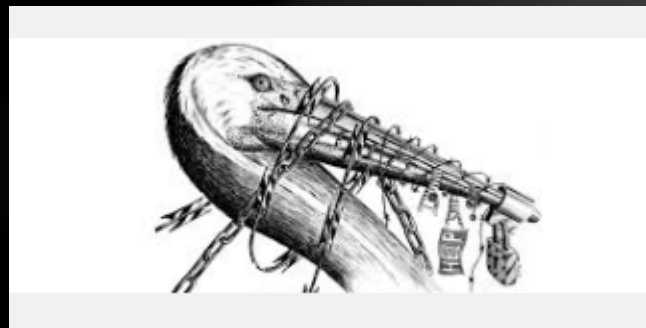
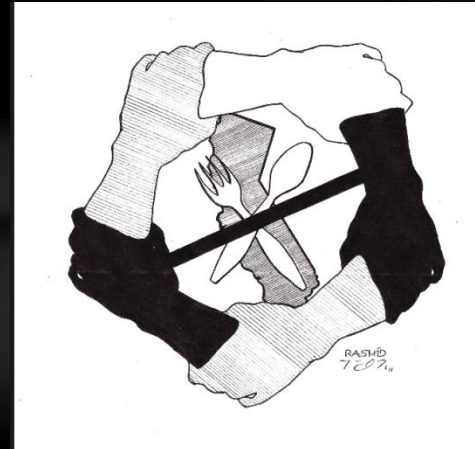
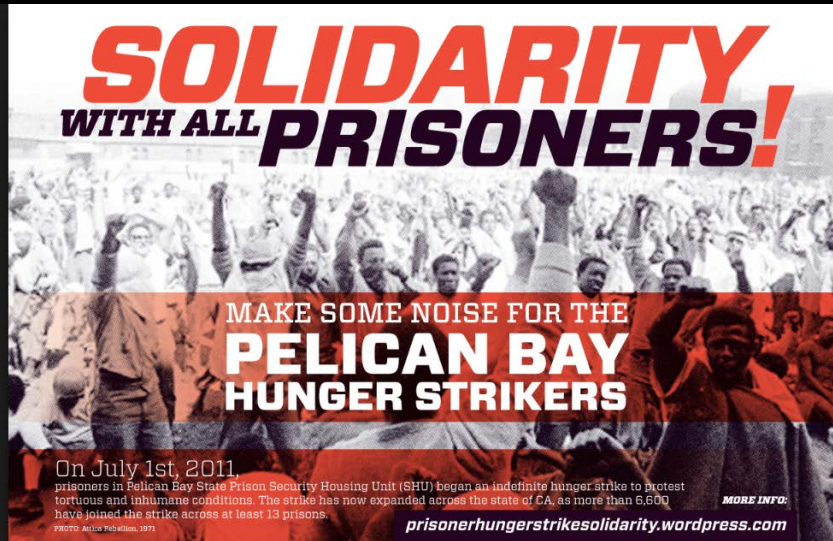


twenty volunteers were placed separately in a silent room, and asked to remain in it for as long as they could. The average quitting times were 29.24 hours for men and 48.70 hours for women. None of the participants endured the 'silent room' for longer than four days (Smith & Lewty, 1959:342-345).

Where the duration of isolation was unspecified, two hours were sufficient to generate confusion and the fear of becoming insane (Solomon et al, 1961).

Other

Pelican Bay Hunger Strike



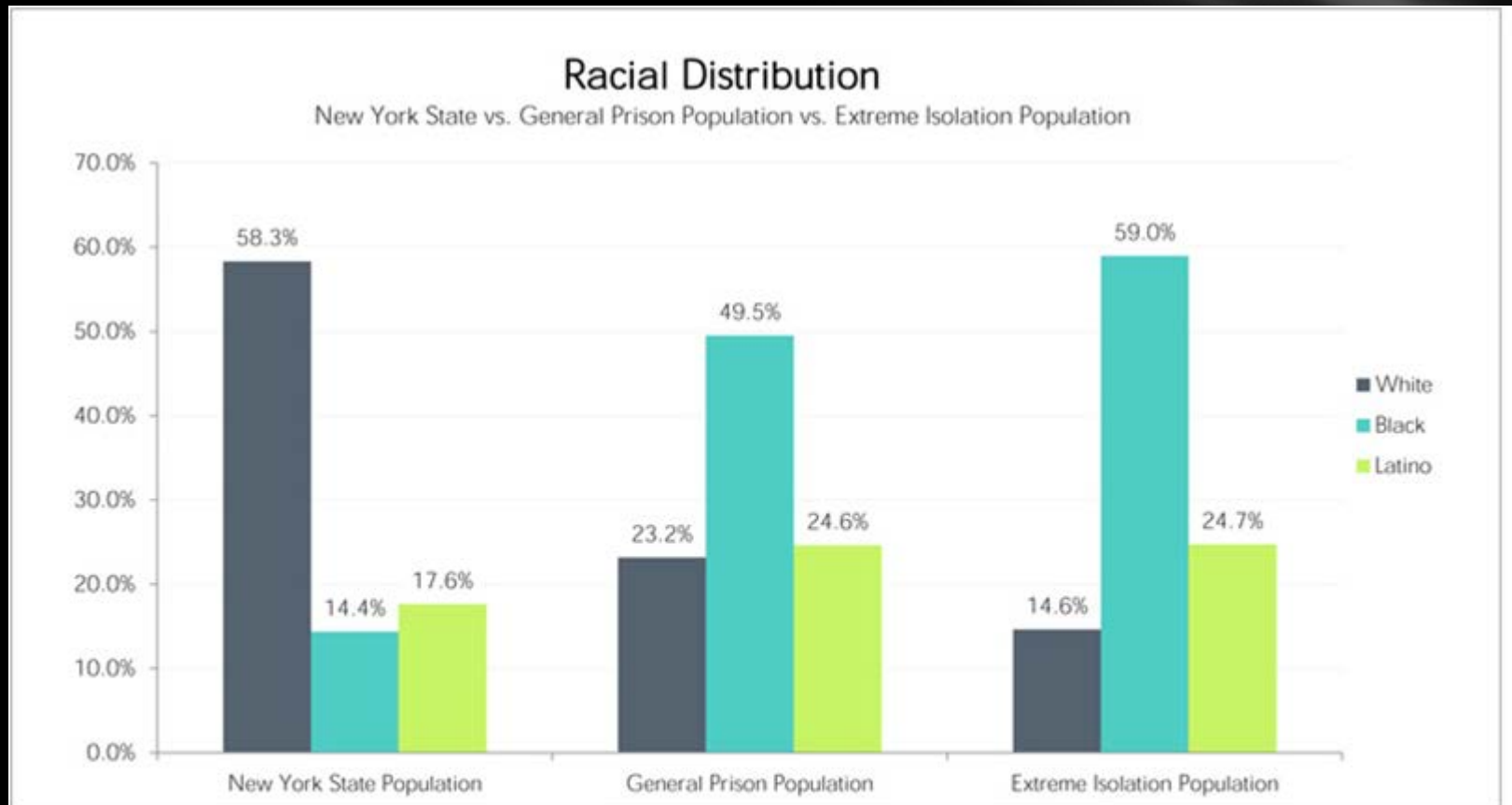
California's Settlement Ashker v. Brown

- Prisoners will no longer be sent to solitary based solely on gang affiliation, but rather based on specific serious rules violations. The Ashker settlement ends California's status-based practice of solitary confinement, transforming it into a behavior-based system

- Under the settlement, California will generally no longer impose indeterminate SHU sentences. Instead, after serving a determinate sentence for a SHU offense, prisoners whose offense is related to gang activity will enter a two-year, four-step, step-down program to return to the general prisoner population. Prisoners will receive increased privileges at each step of the step-down program.



Racial Distribution of Solitary Confinement



A disciplinary system where government officials may act with substantial discretion creates opportunities for bias and prejudice to influence who receives punishment. One manifestation of this may be the disproportionate number of black prisoners in extreme isolation as compared to the general prison population.

*State population data from Census 2010. Prison population data from "Security Level and Facility by Ethnic Status, DOCCS Under Custody Pop. Jan. 1, 2012," obtained through FOIL and on file with the NYCLU. Extreme isolation population data from "Table 3H: Race/Ethnicity for Offenders Housed in SHU - DOCCS Under Custody Pop. Jan. 1, 2012," obtained through FOIL and on file with the NYCLU.

Solitary by the Numbers

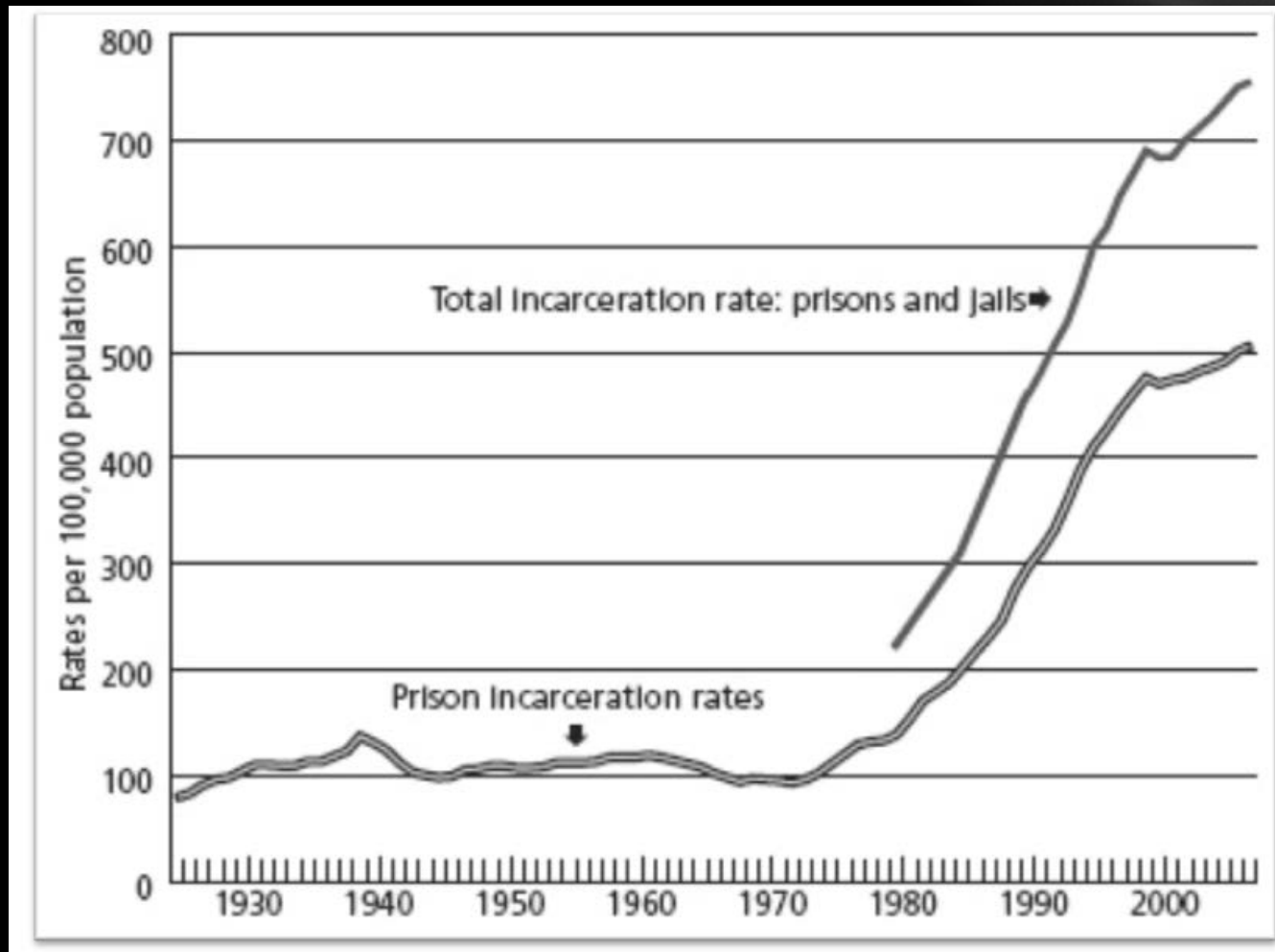
2005 census by the Bureau of Justice Statistics: 81,622 individuals held in "restricted housing" in the nation's prisons.

2005 study: 25,000 of these segregated prisoners held in supermax prisons around the country.

Figures do not include local jails, immigrant detention centers, juvenile facilities or military facilities.

True total is likely to be over 100,000.

Prison Population Trends



Shoatz v. Wetzel



Shoatz had been held in solitary confinement in the Pennsylvania Department of Corrections (PADOC) since 1983. For 19 months between 1989 and 1991 he was held in the general population of the federal penitentiary at Leavenworth. Upon return to the PADOC in 1991 he was immediately placed back in solitary confinement and held there until February 20, 2014, when he was released to the general population at State Correctional Institution Graterford, 10 months after he had filed suit in *Shoatz v. Wetzel*.