

**The Torture of Solitary Confinement in the United States:  
The Example of New York State**

Shadow Report of the Correctional Association of NY  
to the U.N. Committee Against Torture, 53<sup>rd</sup> Session  
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The Correctional Association of New York (CA) would like to thank the United Nations Committee Against Torture for the opportunity to present this shadow report for consideration as the Committee undertakes its periodic review of the United States' compliance with the Convention Against Torture (CAT). The CA has had statutory authority since 1846 to visit New York State's prisons and to report its findings and recommendations to the legislature, other state policymakers, and the public. Our access provides us with a unique opportunity to observe and document actual prison practices and to learn from incarcerated persons and staff. Based on the CA's investigations, this shadow report is primarily in response to the information presented by the United States for Issue 37 of the Committee's List of Issues, and will rely on New York State as an example of the need for fundamental reform of the torture of solitary and isolated confinement at the federal, state, and local levels in the United States.

**United States' Non-Compliance with the Convention Against Torture**

The United States is in clear violation of the Convention Against Torture (CAT) due to its ongoing practices of solitary and isolated confinement in federal, state, and local prisons, jails, and detention facilities. CAT defines torture as, among other things, "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as . . . *punishing* him for an act he or a third person has committed or is suspected of having committed, . . . , or for any reason *based on discrimination* of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity" (emphasis added).<sup>1</sup> In turn, CAT calls upon each State Party to take effective measures to prevent acts of torture and other cruel, inhuman, or degrading treatment or punishment in *any* territory under its jurisdiction.<sup>2</sup> In its 2006 conclusions and observations, the Committee Against Torture called upon the United States to review the use of prolonged isolation, particularly due to the Committee's concern that such isolation has negative effects on people's mental health, is carried out for purposes of retribution, and constitutes cruel, inhuman or degrading treatment or punishment.<sup>3</sup> The United Nation's Special Rapporteur on Torture has concluded that "any imposition of solitary confinement beyond 15 days constitutes torture or cruel, inhuman or degrading treatment or punishment" and called for

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<sup>1</sup> Convention Against Torture, Article 1.

<sup>2</sup> *Ibid* at Article 2, Article 16.

<sup>3</sup> Conclusions and Recommendations of the Committee Against Torture, United States of America, 36<sup>th</sup> Session, CAT/C/USA/CO/2, 25 July 2006, *available at*: <http://www.ushrnetwork.org/sites/ushrnetwork.org/files/catrecommendations2006.pdf>.

“an absolute prohibition” on isolation beyond 15 days for all people.<sup>4</sup> In turn, the Special Rapporteur has called upon the United States, and specific individual states like New York State, to end prolonged solitary confinement.<sup>5</sup>

New York State represents one example in which the United States is failing to take effective measures to address the widespread torture of solitary confinement and other forms of isolation.<sup>6</sup> On any given day, in New York State Department of Corrections and Community Supervision (DOCCS) prisons alone, more than 3,800 people are held in Special Housing Units (SHU), and a thousand or more are subjected to keeplock in the state prisons.<sup>7</sup> Thousands more people are subjected to solitary confinement in local city and county jails around the state, including New York City Jails.<sup>8</sup> In New York State prisons, isolated confinement is primarily inflicted, explicitly both in policy and practice, for purposes of punishment of rule violations in the prison system. Indeed, contrary to popular belief, isolated confinement is not primarily used to address chronically violent behavior or serious safety or security concerns, but often comes in response to non-violent prison rule violations, or even retaliation for questioning authority, talking back to staff, or filing grievances. Whether for disciplinary confinement, administrative segregation, or protective custody reasons, people in either SHU or keeplock in NYS prisons spend 22 to 24 hours per day locked in a cell, without any meaningful human interaction, programming, therapy, or generally even the ability to make phone calls, and often being allowed only non-contact visits if they receive visits at all.

Although the U.N. Special Rapporteur on Torture has concluded that isolated confinement beyond 15 days amounts to cruel, inhuman, or degrading treatment, or torture, people in NYS prisons regularly remain in isolated confinement for months and years, and sometimes even decades. The average single SHU sentence for one disciplinary hearing in New York State is five months, and people often accumulate disciplinary infractions while in the

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<sup>4</sup> United Nations General Assembly, *Interim Report of the Special Rapporteur of the Human rights Council on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, p. 21, 23, Aug. 2011, available at: <http://solitaryconfinement.org/uploads/SpecRapTortureAug2011.pdf> (“UN Rapporteur Report”).

<sup>5</sup> Juan E. Méndez, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, March 11, 2013, pages 122-123, 130-31.

<sup>6</sup> In New York State, many individuals are confined in double cells and are held in conditions of isolation with that second person. People in such confinement are still locked in their cells 23 or 24 hours per day, without meaningful human interaction or programming, and the negative effects of such isolation have been shown to be as harmful or sometimes more harmful than solitary confinement of a single person. In this testimony we will thus sometimes use the term “isolated confinement” in place of solitary confinement.

<sup>7</sup> Keeplock refers to individuals confined for 23 or 24 hours a day either in their same cell in the general prison population or in a separate cellblock.

<sup>8</sup> See James Gilligan and Bandy Lee, *Report to the New York City Board of Correction*, p. 3, Sept. 5, 2013 (“Gilligan and Lee Report”), available at: <http://solitarywatch.com/wp-content/uploads/2013/11/Gilligan-Report.-Final.pdf>; Preet Bharara, *CRIPA Investigation of the New York City Department of Correction Jails on Rikers Island*, US Department of Justice, US Attorney, Southern District of NY, p. 53, Remedial Measure C(1)(c), Aug. 4, 2014, available at: <http://www.justice.gov/usao/nys/pressreleases/August14/RikersReportPR/SDNY%20Rikers%20Report.pdf>.

SHU, thereby greatly extending their time.<sup>9</sup> One example of the extreme lengths of time that large numbers of people spend in solitary confinement in New York State prisons comes from Attica Correctional Facility, which currently incarcerates just over 2,000 people. From January 3, 2010 through November 8, 2013, nearly 2,800 separate individuals at Attica spent some time in SHU or keeplock, meaning that roughly 40% of all people who were incarcerated at Attica at any point during that time period were held in isolated confinement.<sup>10</sup> Over 60% of all single SHU sentences during that time period were six months or more, 20% were one year or more, and ten single SHU sentences were for four or five years.<sup>11</sup> Worse still, many incarcerated individuals repeatedly received disciplinary tickets and additional SHU time. Looking at the cumulative sentences to solitary confinement at Attica during this time period – calculated by adding all SHU and keeplock sentences minus any time cuts received – 2,225 people, or *nearly one third* of all people incarcerated at Attica at any time from January 2010 to November 2013, had a cumulative sentence to isolated confinement of 30 days or more. Over 1,100 people had a cumulative sentence of six months or more, 450 people had a cumulative sentence of one year or more, over 100 people had a cumulative sentence of two years or more, 40 people had a cumulative sentence of three years or more, and eight people had cumulative sentences of *five years or more*, with the highest being just under *seven years* of solitary confinement.<sup>12</sup>

Similarly, at Clinton Correctional Facility, which currently incarcerates just under 2,700 people, from January 2010 to November 2013, 3,392 people were sentenced to SHU or keeplock. In the Main facility at Clinton,<sup>13</sup> which currently incarcerates around 1,940 people, over 2,780 people received a cumulative sentence to isolated confinement of 30 days or more, representing nearly 49% of all people incarcerated in Clinton Main at some point from January 2010 to November 2013.<sup>14</sup> In addition, more than 1,000 people in the Main facility at Clinton had a cumulative sentence of six months or more, 400 had a cumulative sentence of one year or more, and six individuals were sentenced to five years or more, with the highest amounts of time being *eight years* and *10 years* of solitary confinement.<sup>15</sup> Unfortunately, the lengths of time in solitary confinement at Attica and Clinton are not unique to those prisons. For example, individuals in

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<sup>9</sup> New York Civil Liberties Union, “*Boxed In – The True Cost of Extreme Isolation in New York’s Prisons*”, p. 21 (2012) available at: <http://www.nyclu.org/publications/report-boxed-true-cost-of-extreme-isolation-new-yorks-prisons-2012> (hereafter “*Boxed In*”).

<sup>10</sup> This percentage is calculated from an estimate – based on the number of people entering and leaving Attica each year – that there were 6,950 total separate people who were at Attica at some point during the four year time period.

<sup>11</sup> Analysis of disciplinary data obtained from the NYS Department of Corrections and Community Supervision (DOCCS) through a Freedom of Information Law request.

<sup>12</sup> *Ibid.*

<sup>13</sup> Clinton C.F. has both a Main facility, which currently incarcerates 1941 people, and an Annex, which currently incarcerates 747 people.

<sup>14</sup> This percentage is calculated from an estimate – based on the number of people entering and leaving Clinton each year – that there were 5,700 total separate people who were at Clinton Main at some point during the four year time period.

<sup>15</sup> *Ibid.*

other NYS prisons have been documented to have served as many as *14 years* and *26 years* in isolated confinement.<sup>16</sup>

The sensory deprivation, lack of normal human interaction, and extreme idleness that result from isolated confinement have long been proven to lead to intense suffering and physical and psychological damage.<sup>17</sup> Isolation has been shown to create or exacerbate pre-existing mental health conditions,<sup>18</sup> and increase the risk of suicide and self-harm. A recent study conducted in New York City jails, written by authors affiliated with the New York City Department of Health and Mental Hygiene, and published in the American Journal of Public Health, found that people who were held in solitary confinement were nearly seven times more likely to harm themselves and more than six times more likely to commit potentially fatal self-harm than their counterparts in general confinement, after controlling for length of jail stay, serious mental illness status, age, and race/ethnicity.<sup>19</sup> Due to such damaging effects, the lengths of time in solitary confinement in New York prisons and jails amount to torture and cruel, inhuman or degrading treatment, far exceeding the Special Rapporteur's 15-day prohibition. These lengths of time in isolated confinement are also incredibly far outside the norm of the international community and many other countries' practices. For example, the Netherlands legislatively prohibits anyone from being placed in solitary confinement for more than two weeks in an entire year, Germany has a similar limit of four weeks annually, and in practice prisons in both countries rarely utilize any solitary confinement and only use it for *hours* at a time.<sup>20</sup>

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<sup>16</sup> See *Voices from Solitary*, Solitary Watch, available at: <http://solitarywatch.com/2013/03/11/voices-from-solitary-a-sentence-worse-than-death/>; <http://solitarywatch.com/2013/06/03/voices-from-solitary-the-loneliest-place-in-the-world/>; <http://solitarywatch.com/2013/05/01/voices-from-solitary-you-are-solitary-confinement/>.

<sup>17</sup> See, e.g., Stuart Grassian, *Psychiatric Effects of Solitary Confinement*, Journal of Law & Policy, Vol. 22:325 (2006), available at: <http://law.wustl.edu/journal/22/p325grassian.pdf> ("*Psychiatric Effects of Solitary*"); Craig Haney, *Mental Health Issues in Long-Term Solitary and 'Supermax' Confinement*, 49 Crime & Delinq. 124 (Jan. 2003), available at: <http://www.supermaxed.com/NewSupermaxMaterials/Haney-MentalHealthIssues.pdf>; Stuart Grassian and Terry Kupers, *The Colorado Study vs. the Reality of Supermax Confinement*, Correctional Mental Health Report, Vol. 13, No. 1 (May/June 2011); Sruthi Ravindran, *Twilight in the Box: The suicide statistics, squalor & recidivism haven't ended solitary confinement. Maybe the brain studies will*, Aeon Magazine, Feb. 27, 2014, available at: <http://aeon.co/magazine/living-together/what-solitary-confinement-does-to-the-brain/>; Joseph Stromberg, *The Science of Solitary Confinement*, Smithsonian Magazine, Feb. 19, 2014, available at: <http://www.smithsonianmag.com/science-nature/science-solitary-confinement-180949793/#.Uwoq5RSWaQ.email>.

<sup>18</sup> See Gilligan and Lee Report at 3-5.

<sup>19</sup> Homer Venters, et. al., *Solitary Confinement and Risk of Self-Harm Among Jail Inmates*, American Journal of Public Health, Mar. 2014, Vol. 104, No. 3, available at: <http://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.2013.301742>. A separate recent panel of scientists at the annual meeting of the American Association for the Advancement of Science also further reported on the harmful psychological and neurological effects of solitary. See Joseph Stromberg, *The Science of Solitary Confinement*, Smithsonian Magazine, Feb. 19, 2014, available at: <http://www.smithsonianmag.com/science-nature/science-solitary-confinement-180949793/#.Uwoq5RSWaQ.email>.

<sup>20</sup> Ram Subramanian and Alison Shames, *Sentencing and Prison Practices in Germany and the Netherlands: Implications for the United States*, p. 13, Oct. 2013, available at: <http://www.vera.org/sites/default/files/resources/downloads/european-american-prison-report-v3.pdf>.

Moreover, the imposition of solitary and isolated confinement is carried out in a racially discriminatory manner. The people subjected to isolated confinement in New York State prisons are disproportionately African American, representing 60% of the people in SHU compared to the already vastly disproportionate 50% of people in NYS prisons and 18% of the total NYS population.<sup>21</sup> Moreover, youth of color are even more disproportionately subjected to isolated confinement. Looking at a snapshot of the major isolated confinement units in New York State that hold people in isolation for the longest periods of time – namely Southport and Upstate Correctional Facilities, which are entire prisons dedicated to isolated confinement (essentially supermax prisons), and the SHU 200s or S-blocks, which are 200-bed freestanding isolated confinement units – black youth represented an even more disproportionate 66% of the young people aged 21 or younger in isolated confinement, compared to 61% of all youth 21 and under in the DOCCS system.<sup>22</sup> The people subjected to isolated confinement also include people particularly vulnerable to either the effects of isolation itself or additional abuse while in isolation, including young and elderly people, people with physical, mental, or medical disabilities, pregnant women, new mothers, and members of the LGBTI community.<sup>23</sup> In addition, incarcerated women and girls face additional issues related to isolated confinement, including particularly damaging effects on survivors of domestic violence, potential triggering of Post-Traumatic Stress Disorder symptoms, additional impacts on sense of self-worth and connections to relationships and the community, and compromised ability to receive reproductive health care and gynecological care.<sup>24</sup>

New York State has taken some positive steps to limit the use of solitary confinement for a substantial but relatively small number of individuals in the state prisons, although much greater reform is needed to end the torture of solitary confinement. Specifically, the SHU Exclusion Law in New York State requires that any person who suffers from a statutorily defined

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<sup>21</sup> See, e.g., *Boxed In* at 24.

<sup>22</sup> Analysis of information obtained from DOCCS. Young people aged 21-and-under represented just over 7.5% of all people incarcerated in Southport, Upstate, or one of the S-blocks.

<sup>23</sup> For greater explanation of the particularly damaging effect of isolation on children, see, e.g., Human Rights Watch/American Civil Liberties Union, *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States*, 2012 (“*Growing Up Locked Down*”), p. 15-16, 20-32, available at: <https://www.aclu.org/files/assets/us1012webwcover.pdf>. See also New York State Bar Assoc, Committee on Civil Rights, Report to the House of Delegates Solitary Confinement in New York State, 2013, p. 8-9, available at: <https://www.nysba.org/solitaryreport/>. For greater explanation of the greater risk of harm to members of the LGBTI community by being placed in solitary, see Aviva Stahl, *Transgender Women in New York State Prisons Face Solitary Confinement and Sexual Assault*, Solitary Watch, August 7, 2014, available at: <http://solitarywatch.com/2014/08/07/transgender-women-in-new-york-state-prisons-face-solitary-confinement-and-sexual-assault/>.

<sup>24</sup> See, e.g., Testimony by the Correctional Association of New York, Before the Senate Judiciary Committee’s Subcommittee on the Constitution, Civil Rights, and Human Rights Reassessing Solitary Confinement, p. 4, June 19, 2012, available at: <http://www.correctionalassociation.org/wp-content/uploads/2012/10/testimony-solitary-confinement-june-2012.pdf> (citing Barbara Bloom, Barbara Owen, and Stephanie Covington, *Gender-Responsive Strategies: Research, Practice, and Guiding Principles for Women Offenders*, the National Institute of Corrections.). Bedford Hills and Albion are the only two women’s facilities with a SHU – Bedford’s unit has 24 cells and Albion’s has 48 – and all facilities except Beacon have a Keeplock area.



“serious mental illness” and receives 30 days or more of disciplinary confinement must be diverted from the SHU to an alternative Residential Mental Health Treatment Unit (RMHTU).<sup>25</sup> While this provision has benefitted people with serious mental illness who have been diverted from the SHU, there are concerns about the effectiveness of implementation of the law, and most importantly the vast majority of people with mental health needs – who do not fit the statutory criteria – remain in the SHU, including approximately 700 people on the Office of Mental Health caseload as of the latest available data.<sup>26</sup> Similarly, DOCCS has recently agreed to limit the use of solitary confinement for 16- and 17-year-olds, people with developmental disabilities, and pregnant women; and remains in ongoing settlement negotiations to implement additional reforms with the help of experts.<sup>27</sup> Again, while these provisions are a positive step toward limiting the use of isolated confinement, the reforms thus far affect only a limited number of people and leave thousands of others still in isolated confinement.<sup>28</sup>

### **Recommended Questions for the Committee to Ask the United States**

The Committee Against Torture should ask the United States:

- 1) To provide comprehensive data on the use of isolated confinement in all federal, state, and local prisons, jails, and detention facilities, including: the number of people in isolated confinement, the characteristics of people in such confinement (including related to age, race, ethnicity gender, gender identity, and mental health, health, pregnancy, and LGBTI status), the reasons provided for placement in isolated confinement, the lengths of stay in isolated confinement, and the total duration spent in isolated confinement.
- 2) What measures are currently being taken to address the use of solitary confinement at the federal, state, and local levels with regard to: limiting the length of time spent in isolation, creating more humane and effective alternatives to isolation, restricting the criteria that can result in isolation, reintegration of persons being discharged from isolation to the correctional facility or directly to the community, prohibiting particularly vulnerable individuals from being placed in isolation, addressing the racial disparities in the imposition of isolation, enhancing procedural protections prior to placement in isolation, and ensuring transparency and accountability.

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<sup>25</sup> SHU Exclusion Law of 2008, 2008 N.Y. Laws 1 (codified as amended at N.Y. CORRECT. LAW §§ 137 & 401-a (McKinney 2012) and N.Y. MENTAL HYG. LAW § 45 (McKinney 2012)

<sup>26</sup> For more information about the benefits and limitations of the SHU Exclusion, please *see* CA 2012 Testimony, p. 5-10.

<sup>27</sup> *See Leroy Peoples, et. al. v. Brian Fischer, et. al.*, Docket Number 11-CV-2964 (SAS), Stipulation for a Stay with Conditions, *available at*: [http://www.nyclu.org/files/releases/Solitary\\_Stipulation.pdf](http://www.nyclu.org/files/releases/Solitary_Stipulation.pdf).

<sup>28</sup> For more information about the benefit and limitations of the recent interim stipulation, *see* Testimony by the Correctional Association of New York, Before the Senate Judiciary Committee’s Subcommittee on the Constitution, Civil Rights, and Human Rights Reassessing Solitary Confinement, February 25, 2014, *available at*: <http://solitarywatch.com/wp-content/uploads/2014/02/Correctional-Association-testimony-for-Congressional-Hearing-2-25-14-with-attachment.pdf>.

- 3) What specifically is and/or can the federal government do to investigate and take remedial action to address the abuse of solitary confinement in state prisons, like Attica C.F. and Clinton C.F. in New York State?

### **Suggested Recommendations for the U.S. to End the Torture of Solitary Confinement**

The ongoing torture of solitary confinement across the United States is in need of dramatic reform. The United States must take action to reduce the inhumane and counterproductive use of solitary confinement in federal, state, and local prisons, jails, and detention centers across the country. Specifically, the United States must: 1) limit the use of solitary confinement and create alternatives in federal prisons operated by the Bureau of Prisons (BOP) and immigration authorities; 2) establish best practices and provide funding for limiting the use of solitary confinement and creating more humane and effective alternatives in states and localities across the country; 3) close federal prisons operated by the BOP that have proven to be so abusive that they are beyond the possibility of reform, such as ADX Florence; and 4) ensure transparency and oversight of federal, state, and local prisons, jails, and detention centers. With regard to limiting the use of solitary in federal prisons and detention centers, and establishing best practices for limiting the use of solitary confinement in states and localities, the United States should look to proposed legislation in New York State, the Humane Alternatives to Long Term (HALT) Solitary Confinement Act, A. 8588A / S. 6466A,<sup>29</sup> as a model for reform. HALT would do five key things that any reform to isolated confinement in the U.S. should include<sup>30</sup>:

- a) Mandate the creation of more humane and effective alternatives, which under HALT take the form of alternative residential rehabilitation units in which persons in need of separation from the prison population can be placed, where they will receive six hours of out-of-cell programming in addition to one hour of recreation each day;
- b) Limit the length of time anyone can be placed in isolated confinement to at most 15 consecutive days and 20 days total in any 60 day period;
- c) Restrict the criteria in determining whether a person can be sent to isolated confinement or an alternative therapeutic confinement setting to the most serious acts;

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<sup>29</sup> Humane Alternatives to Long Term (HALT) Solitary Confinement Act, A. 8588A / S. 6466A, available at: [http://assembly.state.ny.us/leg/?default\\_fld=&bn=A08588&term=2013&Summary=Y&Memo=Y&Text=Y](http://assembly.state.ny.us/leg/?default_fld=&bn=A08588&term=2013&Summary=Y&Memo=Y&Text=Y).

<sup>30</sup> For a more thorough explanation of the provisions of the HALT Solitary Confinement Act and the reasons why those provisions are necessary, please see, e.g., Report on Legislation by the Corrections and Community Reentry Committee and International Human Rights Committee, *New York City Bar*, A.8588-A/S.6466-A, available at: <http://www2.nycbar.org/pdf/report/uploads/20072748-HALTSolitaryConfinementReport.pdf>; Testimony by the Correctional Association of New York, Before the Senate Judiciary Committee's Subcommittee on the Constitution, Civil Rights, and Human Rights Reassessing Solitary Confinement, February 25, 2014, available at: <http://solitarywatch.com/wp-content/uploads/2014/02/Correctional-Association-testimony-for-Congressional-Hearing-2-25-14-with-attachment.pdf>; Testimony by the Campaign for Alternatives to Isolated Confinement (CAIC), Before the Senate Judiciary Committee's Subcommittee on the Constitution, Civil Rights, and Human Rights Reassessing Solitary Confinement, February 25, 2014, available at: <http://solitarywatch.com/wp-content/uploads/2014/02/Testimony-of-the-NY-Campaign-for-Alternatives-to-Isolated-Confinement-2014.pdf>.

- d) Exempt particularly vulnerable people – including young people 21-years-old and younger and people with mental health needs – from being placed in isolated confinement for any length of time; and
- e) Enhance staff training, procedural protections, transparency through periodic public reporting, and accountability through independent, outside oversight.

The United States, and all states and localities, including New York State, must stop placing anyone in solitary confinement beyond 15 consecutive days, and must create more humane and effective alternatives for the small minority of persons who may need to be separated from the general prison population for serious threats to the safety of others. If someone needs to be separated from the general prison population because they have harmed others and pose a future threat of harm, that person should not be subjected to isolation and deprivation that will harm that person and only exacerbate the likelihood of harm to others. Rather, that individual should be provided with more support, programs, and therapy to help address the underlying causes of her or his behavior and in turn make our prisons and communities safer. At the very least, the United States should require the BOP, and incentivize states and localities to immediately: stop using solitary confinement during pre-trial detention; enhance conditions of confinement by expanding out-of-cell time and programming and eliminating Special Administrative Measures (SAMs) and their equivalent; review the classifications of everyone in solitary and immediately remove those individuals who do not pose a serious threat to the safety of others because they have engaged in the most egregious conduct while incarcerated; and begin a process for creating more humane and effective alternatives that can replace solitary for all people.

With respect to closing abusive federal prisons, some, like the federal supermax prison, United States Penitentiary, Administrative Maximum Facility (ADX) in Florence, Colorado, have proven to be so abusive and problematic in their use of solitary confinement that the facility needs to be closed in order to end the torturous conditions.<sup>31</sup> In addition, Congress should prohibit the BOP from opening any supermax prisons in the future and specifically in the immediate term should prohibit the BOP from using the recently acquired facility at Thomson, Illinois as a supermax prison, and require that Thomson only be used as a federal prison if any forms of separation are in compliance with the model standards discussed above.

With regard to transparency and oversight, the United States should require that all federal, state, and local prisons, jails, detention centers, and juvenile facilities report publicly and to the Bureau of Justice Statistics (BJS) on the number of people in isolated confinement, the characteristics of people in such confinement (including related to age, race, gender, and mental

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<sup>31</sup> See, e.g., Pardiss Kebriaei, “The Torture that Flourishes from Gitmo to an American Supermax, Jan. 30, 2014, available at: <http://www.motherjones.com/politics/2013/05/10-worst-prisons-america-part-1-adx>; James Ridgeway and Jean Casella, “America’s 10 Worst Prisons: ADX: A Federal isolation facility that’s ‘pretty close’ to hell,” May 1, 2013, available at: <http://www.motherjones.com/politics/2013/05/10-worst-prisons-america-part-1-adx>.



health, health, pregnancy, and LGBTI status), and the lengths of stay in isolated confinement. In turn, the BJS should be required to compile such information and at least annually publish the data and a statistical analysis of the data so that the public is able to have an understanding of how solitary confinement and/or alternatives are being utilized around the country. In addition to such reporting, the United States should empower independent, non-profit or community entities with access to monitor conditions of confinement, including the use of solitary confinement, in federal, state, and local facilities. Moreover, the U.S. Department of State must grant the request by the U.N. Special Rapporteur on Torture to visit prisons in the United States to investigate the use of solitary confinement, and the Department must help facilitate full-access site visits to all federal, state, and local prisons, jails, and detention requested by the Special Rapporteur.

## Conclusion

The United States, and individual states and localities, including New York State, engage in solitary confinement practices that are barbaric, are counterproductive, have a racially disparate impact, and amount to torture and cruel, inhuman and degrading treatment and punishment. The United States and the public often measure how authoritarian another country's government is by the degree to which solitary confinement is used.<sup>32</sup> The Committee Against Torture must apply such scrutiny to the United States as well. Moreover, the use of isolated confinement is interconnected with other abuses of incarcerated people taking place inside of prisons, jails, and detention centers in the United States, including repeated denials of parole release, physical brutality and other forms of violence and abuse by staff, shackling of pregnant women, incarcerating children in adult prisons and jails, and inadequate access to medical care, mental health services, and program and rehabilitative opportunities. The United States incarcerates 2.23 million people – disproportionately black and Latino men, women, and children – in its prisons and jails, not including its immigration and youth detention facilities.<sup>33</sup> That number of incarcerated persons means that nearly one out of every 100 adults in the United States is in prison or jail – a rate that is five to ten times higher than in other so-called liberal democracies.<sup>34</sup>

The Committee Against Torture must recognize the use of solitary confinement in the United States as a manifestation of, representative aspect of, and a contributing factor to, the mass incarceration of people in the United States. In turn, the Committee must impress upon the United States that solitary confinement is but one severe component of a broader broken system of mass incarceration, racial injustice, and a paradigm of punishment over rehabilitation and treatment, and that the fundamental transformation necessary for reform of solitary confinement

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<sup>32</sup> See, e.g., U.S. Country Reports on Human Rights Practices, *Iran*, 2013, p. 6, 8, 14, 20, 22, 35, available at: <http://www.state.gov/documents/organization/220564.pdf>; U.S. Country Reports on Human Rights Practices, *China*, 2013, p. 5, 92, 105, available at: <http://www.state.gov/documents/organization/220402.pdf>.

<sup>33</sup> See, e.g., Jeremy Travis and Bruce Western, *The Growth of Incarceration in the United States: Exploring Causes and Consequences*, National Academy of Sciences, p. 13 (2014).

<sup>34</sup> *Ibid.*

should be applied to a myriad of other United States policies and practices. In the same way that the United States must take action to reduce the use of solitary confinement and create more humane and effective alternatives, the United States must also act to, for example, reduce incarceration sentence lengths, promote the release of more people on parole who have demonstrated their rehabilitation and low risk to society, investigate staff violence, foster alternatives to incarceration and the use of restorative justice, and restore access to federal funding for college education to people who are incarcerated.

Ultimately, the United States must begin a process of de-carceration, racial justice through healing and community empowerment, and a paradigm shift from punishment, warehousing, and the infliction of harm toward rehabilitation, treatment, and empowerment. The United States needs a fundamental transformation in how it addresses social challenges, people's needs, and difficult behaviors in its correctional institutions and in its communities. The Humane Alternatives to Long Term (HALT) Solitary Confinement provides an example of moving toward that transformation by taking a comprehensive approach to reducing the use of solitary confinement and creating more humane and effective alternatives. The United States should adopt, adapt, and apply the key principles from the HALT Solitary Confinement Act – creating alternatives to solitary, restricting the criteria that can result in solitary, ending long-term solitary, prohibiting solitary for particularly vulnerable groups, and enhancing staff capabilities, procedural protections, and transparency and accountability – and thereby begin a process of ending the torture of solitary confinement at the federal, state, and local levels and creating more humane and effective alternatives.